(2009) 10 DEL CK 0195

In the Delhi High Court

Case No : Regular First Appeal No. 249 of 1997

Punjab National Bank APPELLANT

Vs

Satinder Kumar Chopra and Another RESPONDENT

Date of Decision : 07-10-2009

Acts Referred:
Civil Procedure Code, 1908 (CPC) — Section 34

Citation : (2010) 166 DLT 535

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Pankul Nagpal, fo Y.P. Chandra, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Hima Kohli, J.—The present appeal is preferred by the appellant Bank against the judgment and decree dated 26.04.1997 passed by the learned ADJ in a suit registered as Suit No. 697/93 instituted by the appellant against the respondents.

2. Briefly stated, the facts of the case are that a suit for recovery of Rs. 2,48,825/- was filed by the appellant/Bank against the respondents/defendants in the year 1990. The respondents filed a written statement. After the pleadings were completed and the documents filed by the parties were yet to be admitted or denied, efforts for arriving at a negotiated settlement were initiated. In the course of the proceedings itself, the respondents paid the amount of Rs. 2,49,000/- to the appellant thus, leaving only the question of payment of interest from the date of institution of the suit till the date of realization of the suit amount. It is pertinent to note that the entire amount of Rs. 2,49,000/- was liquidated in four installments between the period w.e.f. 29.03.1996 to 02.04.1997.

3. The learned Addl. District Judge relied upon a judgment passed by the High Court of Delhi in the case of State Bank of India Vs. P.K. Sethi and Others, and

awarded interest in favour of the appellant @ 6% per annum, apart from the costs of suit on the ground that as per the law laid down in the aforesaid judgment, the suit amount had been paid by the respondents to the appellant/ Bank during the pendency of the suit proceeding and hence, the respondents were entitled to reduction of the rate of interest for the period from the date of institution of the suit, till the date of realization thereof.

4. Counsel for the appellant states that the impugned judgment is erroneous as the trial court failed to take into consideration the fact that in terms of the loan documents, the agreed minimum rate of interest was 17.5% per annum and any reduction of interest contrary to the agreed rate of interest was unjustified. In this regard, he relies upon the judgment rendered in the case of Corporation Bank Vs. M/s. Rama Industries and Others, .

5. Section 34 of the Code of Civil Procedure, 1908 (CPC) leaves the discretion to the Court to order interest at such rate as the Court may consider reasonable to be paid on the principal sum adjudged, from the date of institution of the suit to the date of the decree, not exceeding 6% per annum with the proviso that when the liability in relation to the sum so adjudged had arisen out of a commercial transaction, the rate of such further interest may exceed 6% per annum, but it shall not exceed the contractual rate of interest and where there is no contractual rate, the rate at which moneys are lent or advanced by nationalized banks in relation to commercial transaction.

6. It is quite clear that the award of interest u/s 34 CPC after the date of the institution of the suit is in the discretion of the Court. Unlike the facts in the case of Corporation Bank (supra), where the defaulting party had not paid any amount to the plaintiff Bank therein, during the pendency of the suit except for expressing their readiness and willingness to do so, the respondents in the present case had liquidated the entire amount during the pendency of the suit itself, between the period, March 1996 to April 1997. Thus, the facts and circumstances of the present case justified a reduction of interest. Such facts did not exist in the case of Corporation Bank (supra). "Exceptional circumstances" referred to by the learned Single Judge in the above case is a variable factor and in each case, depends on the facts and circumstances specific to that case. In the present case, having regard to the exceptional circumstances mentioned above, the court below exercised its discretion and awarded interest in favour of the appellant Bank @ 6% per annum from the date of institution of the suit till the realization of the amount.

7. This Court does not find any illegality in the rate of interest awarded by the trial court in favour of the appellant Bank, which deserves interference in the present appeal. The discretion exercised by the trial court in awarding the interest is tempered by reason and based on the peculiar facts and circumstance of the case and cannot be termed as arbitrary.

8. For the aforesaid reasons, the prayer made in the appeal is rejected and the

same is dismissed with no orders as to costs.

The trial court record be released.

