
(2011) 02 DEL CK 0478

In the Delhi High Court

Case No : Regular First Appeal No. 396 of 2001

Sagar T.V. and Radio Centre and Others

APPELLANT

Vs

Samsung India Electronics Limited

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0478

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Munish Tyagi, for the Appellant; Lakhmi Chand and Niraj Singh, for the Respondent

Judgement

Valmiki J Mehta, J.

RFA No. 396/2001 and C.M. Nos. 1150/2001 and 1428/2001

1. Learned Counsel for the Appellants does not press the appeal except for reduction of the high rate of interest of 22% granted for the period prior to the filing of the suit and for interest @ 11% granted pendente lite and future.

2. Learned Counsel for the Appellants states that business of the Appellants has closed down and they are in grave financial difficulties. It is pleaded that the Supreme Court in its recent chain of judgments has observed that on account of the changed economic scenario and the consistent fall in the rates of interest, the Courts should reduce the rate of interest especially considering the long pendency of litigation. I may note that in this case litigation is pending for almost twelve years. The judgments of the Supreme Court are *Rajendra Construction Company Vs. Maharashtra Housing and Area Development Authority and Others*, , *McDermott International Inc. Vs. Burn Standard Co. Ltd. and Others*, , *Rajasthan State Road Transport Corpn. Vs. Indag Rubber Ltd.*, & *Krishna Bhagya Jala Nigam Ltd. Vs. G. Harischandra Reddy and Another*, and *State of Rajasthan v. Ferro Concrete Construction Pvt. Ltd.* (2009) 3 Arb. LR 140 (SC)

3. Recently, a Division Bench of this Court in the case of Pt. Munshi Ram v. DDA decided on 22nd July, 2010 (Paras 16 & 20) and to which I was a party, has held that in case even the pre suit rate of interest is illegal or against the public policy, the same can be interfered with by the Courts. In the present case, the rate of interest of 22% per annum is quite clearly exorbitant. Learned Counsel for the Respondent could not show any contrary judgment or argue otherwise with respect to the rate of interest. In fact, there was almost no effective opposition to the request for reduction of the rate of interest.

4. In view of the above, I partially accept the appeal and decree the suit of the Respondent/Plaintiff for a sum of Rs. 1,99,043.17/- with interest @ 8% per annum simple from 30.5.1997 till the date of filing of the suit and also @ 8% per annum simple pendente lite and future till realization of the decretal amount. I may however state that this concession in the rate of interest will only be applicable in case the Appellants/Defendants pay the decretal amount within a period of six months from today. In case, the amount is not paid within six months from today, the concession granted in the rate of interest will stand withdrawn and the impugned judgment and decree will stand as it is.

5. Learned Counsel for the Appellants states that liberty should be granted to deposit the decretal amount in this Court. The aforesaid liberty is granted and the decretal amount can be deposited in this Court. On deposit of the decretal amount, the bank guarantee furnished by the Appellants shall stand discharged.

6. With the aforesaid observations, the appeal is accordingly disposed of. Parties are left to bear their own costs. Decree sheet be prepared. Trial Court record be sent back.