
(1931) 02 MAD CK 0013
In the Madras High Court

Thoppai Venkatarama Aiyar

APPELLANT

Vs

A. Govindarajalu Aiyar

RESPONDENT

Date of Decision : 12-02-1931

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 144

Citation : (1931) ILR (Mad) 887 : (1931) 33 LW 618 : (1931) 61 MLJ 34

Judgement

1. The question is whether the appellant is entitled to interest on costs paid by him to the respondent under a decree afterwards reversed on

appeal, which have to be unfunded to him by way of restitution. In Rodger v. The Comptoir d'Escompte de Paris (1871) L.R. 3 P.C. 465 their

Lordships of the Privy Council did not allow interest on costs to be refunded and remarked that it had never been the habit in ordering the

refunding of costs paid under a decree to order that refunding with interest. In (1877) L.R. 4 I.A. 137 (Privy Council) they remarked that interest

on costs to be restored was ""less favoured"" than interest on other amounts to be restored. But in Kedar Nath Pakrasec v. Doya Moyee Delia

(1873) 20 W.R. 49, a Bench of the Calcutta High Court and in Ram Sahai v. The Bank of Bengal ILR (1886) 8 A. 262, a Bench of the Allahabad

High Court allowed interest on costs so refunded. And since those decisions Section 144 of the present CPC has been enacted to enable

restitution to be made so as to place the parties in the position which they would have occupied but for the decree reversed and provides for

interest being ordered for that purpose without any restriction to interest on amounts other than costs. In Gokul Prasad v. Ram Devi (1921) 19

A.L.J. 771, a Bench of the Allahabad High Court awarded interest on costs to be refunded in order to give effect to the provisions of the section.

In the present case the learned District Judge has given no reason for not allowing interest on the costs in question. In our opinion he would have allowed interest and should have done so.

2. This appeal is allowed, and interest on the costs to be refunded is awarded at 6 per cent. But, as the appellant has claimed a higher rate and has pressed this appeal for a small amount, there will be no order as to costs here.