

Calcutta High Court

HON'BLE JUDGE(S): I. P. MUKERJI, ANIRUDDHA ROY, JJ

IDEAL UNIQUE REALTORS PVT. LTD. V. PADMA LOGISTICS AND KHANIJ PVT. LTD.

APDT - 1 of 2022, decided on 02/02/2022

Civil P.C. (5 of 1908) , 0.6 R.12, S.34- Judgment on admission - Suit for recovery of sums lent and advanced by plaintiff - Principal sum admitted by defendant but interest part disputed - Interest has to be awarded separately - Plaintiff held entitled to admitted amount together with simple interest @ 6% on said sum from date of decree.

When in an application for judgment upon admission, the admitted amount is under consideration by the court, if the decree, based on such admission includes the interest component, the interest part should also have been admitted. Otherwise interest has to be awarded separately. In the instant case the principal sum is the admitted amount but the interest part is disputed. The plaintiff is held entitled to Rs. 4 crores on admission together with 6% simple interest on the said sum from the date of the decree, (Para 9, 12)

Name of Advocates

S. N. Mookherjee, Ld. Advocate General Mr. Tilak K. Bose, Sr. Advocate Mr. Paritosh Sinha, Adv. Mr. Shaunak Mitra, Adv. Mr. Dripto Majumdar, Adv. Ms. Ayusmita Sinha, Adv. for Petitioner; Anuj Singh, Adv. Miss M. Barman, Adv. Mr. Aman Agarwal, Adv. Miss Trinisha De, Adv. Mr. A. K. Singh, Adv. for Respondent.

I.ORDER :-We propose to hear out this appeal dispensing with all formalities.

2.This is an appeal from a judgment upon admission. It was made by a learned single judge on 11 January, 2022 in the above suit. The suit was for recovery of sums lent and advanced by the respondent to the appellant. In aid of the said suit an application for judgment upon admission was made by the respondent where a judgment and decree for Rs. 6,27,72,055/- was claimed as pleaded in paragraph

24 of the application.

3. Now, in paragraph 24 of that application, the principal sum was stated to be Rs.4 crores and the interest claimed thereon at the rate of 15% per annum till 10 September, 2021 was Rs.2,27,72,055/-, aggregating to Rs.6,27,72,055.

4. The learned single judge in a detailed judgment with very tenable reasons, inter alia, came to the conclusion that Rs.4 crores was the admitted amount.

5. Thereafter, a little error that his lordship made was that in the ordering part he directed the entire claim of Rs.6,27,72,055/-, which was inclusive of the above interest to be paid as "decree on admission".

6. No doubt, the principal sum is the admitted amount but it cannot be said that the interest part is also admitted. In fact it is disputed by the appellant.

7. Mr. Singh, learned advocate appearing for the respondent very strenuously contended that the rate of interest was agreed between the parties and that this decree necessarily followed.

8. We are unable to accept this submission.

9. When in an application for judgment upon admission, the admitted amount is under

consideration by the court, if the decree, based on such admission includes the interest component, the interest part should also have been admitted. Otherwise interest has to be awarded separately.

10. Mr. S.N.Mookherjee, learned Advocate General assisted by Mr. T.K. Bose, learned senior Advocate for the appellant very fairly submitted to the decree for Rs.4 crores and prayed for ten equal monthly instalments to pay off this amount.

11. We have also considered section 34 of the Civil Procedure Code.

12. We hold that the respondent plaintiff is entitled to Rs. 4 crores on admission together with 6% simple interest on the said sum from the date of the decree i.e. 11 January, 2022.

13. The appellant shall pay this sum of Rs. 4 crores together with simple interest at the rate of 6% per annum from 11 January, 2022 in ten equal monthly instalments of Rs.40 lakhs each starting from 14 February, 2022 and payable by the 14 of each month, together with interest calculated on the reducing balance principle.

14. Till 31 December 2022 there shall be stay of execution of the decree. In default

of payment of any one instalment, the respondent plaintiff will be free to execute the decree for the outstanding amount. The impugned decree is modified to the above extent.

15.The balance claim of the respondent plaintiff is relegated to trial. We make it clear that it will be open to the respondent plaintiff to take out any summary proceedings for such adjudication.

16.The appeal (APDT/1/2022) and the stay application (IA NO. GA/1/20221) are disposed of.

Order Accordingly