

Before S. S. Dewan, J.

PUNJAB STATE,—Appellant

versus

ISHAR SINGH AND OTHERS,—Respondents.

Execution First Appeal No. 674 of 1976.

February 9, 1978.

Code of Civil Procedure (V of 1908)—Order 21 Rules 1(1)(a) and 1(2)—Money decree awarding future interest—Decretal amount deposited in Court—Interest thereon—Whether ceases from the date of such deposit—Decree-holder—Whether entitled to interest till receipt of notice of payment in Court.

Held, that although payment made under a decree in Court may operate as a satisfaction of the decree but it is unreasonable that merely because the payment is made in Court, therefore, interest should cease to run upon the decree which awards interest until its payment. Order 21 Rules 1(1)(a) and 1(2) of the Code of Civil Procedure, 1908, should be read together and when so read, it is clear that a decree-holder would be entitled to claim interest until such time as and when he comes to know of the payment made in the Court. This construction is in consonance with the considerations of equity. The deposit of decretal amount in the Court quietly by the judgment-debtor and then leaving it to the decree-holder to discover it for himself, would more or less amount to a game of hide and seek.

(Para 4)

Execution First Appeal from the decree of the Court of Shri B. S. Nehra, 1st Addl. District Judge, Ludhiana, dated the 3rd April, 1976, ordering that the decree-holders are entitled to get compensation amounting to Rs. 2,211.41 P. and directing the Punjab State to pay the amount within one month.

Claim:—Application for Execution of the Decree.

Claim in Appeal.—For reversal of the decree of the lower Court.

H. L. Soni, Advocate, for the appellant.

D. S. Chahal and P. S. Jain, Advocates, for the respondents.

JUDGMENT

S. S. Dewan, J

(1) This first appeal arises out of the execution proceedings and is filed by the judgment-debtor against the order of the Additional District Judge, Ludhiana, in execution application No. 132/19 of 1965—73, passed on 3rd April, 1976.

(2) The short facts of the case are that the Punjab State acquired the decree-holders' land for the establishment of Agricultural University at Ludhiana. The Land Acquisition Collector gave the award on 8th February, 1960. The Additional District Judge,—*vide* his judgment, dated 31st July, 1964, enhanced the compensation awarded by the Land Acquisition Collector. The amount of Rs. 57,799.38 Paise was also paid to the decree-holders in the month of December, 1966.

(3) It is admitted that the interest was awarded by the decree on the decretal amount. The question for determination in the circumstances is whether the interest on the compensation amount ceased from the date of its deposit in Court or not. The Court of first instance has held that it does not and the decree-holders are entitled to interest until they receive notice of payment in Court.

(4) The learned counsel for the judgment-debtor-appellant, argues that the decretal amount paid in court tantamounts to payment to the decree-holders and as such the interest must cease from its deposit in the Court. This is just a bald submission of the counsel and it is not supported by any principle or precedent. Isher Singh, decree-holder, appearing as P.W. 3 has deposed that he did not receive any notice regarding the deposit of the compensation amount in the Court and this contention of the decree-holder remains un rebutted. It seems that notice was not given through the Court to the decree-holders. At any rate, the decree-holder-appellant was unaware of the payment made into Court until December, 1966. Although, payment made under a decree in the Court, may operate as a satisfaction of the decree, which will, I think be unreasonable to hold that merely because the payment is made in Court, therefore, interest should cease to run upon a decree which awards interest until its payment. We think 0.21 R.1(I)(a) and 0.21 R.1(2) of the Code of Civil Procedure, should be read together and when so read, it is in our opinion clear that decree-holders would be entitled to claim interest until such time as and

Punjab State v. Ishar Singh etc. (Dewan, J.)

when they come to know of the payment made in the Court. This construction is in consonance with the considerations of equity. The deposit of decretal amount in the Court quietly by the judgment-debtor and then leaving it to the decree-holder to discover it for himself, would more or less amount to a game of hide-and-seek, and, of course, the Court of law is not a play-ground for litigants. The learned counsel for the respondent has drawn our attention to *Special Land Acquisition Officer, Ahmedabad v. Ambalal Trikamlal* (1) and *Janaki Ammal v. Mathiri* (2), in which it is held that interest will not cease to run on the amount deposited in Court until decree-holder gets notice of the deposit.

(5) The case of the decree-holder was that the possession of the land was taken by the Collector on or about 1st April, 1960 and as such the judgment-debtor was liable to pay interest from that date. Ishar Singh, decree-holder and his witnesses, namely, Bhajan Singh and Madan Lal have consistently stated that the possession of the land was taken soon after the award of the Collector, dated 8th February, 1960 and their plea also finds support from the award of the Collector. In this view of the matter, the learned Additional District Judge has rightly found that the decree-holders were entitled to interest at the rate of 4 per cent to be calculated from 1st April, 1960. The learned counsel for the appellant has contended that the decree-holders were wrongly paid Rs 839.50 paise for Khasra Nos. 348 and 349 by the Collector, Ludhiana, in the year 1960. According to him, this amount was to be refunded by them with interest and that the learned Additional District Judge has not taken this point into account while calculating the compensation due to the decree-holders. I find slender force in his argument. The learned Additional District Judge has gone into this matter. It has been observed in his order that the decree-holders had submitted their claim after deducting the amount of Rs. 926.08 paise paid to them for Khasra Nos. 348 and 349. In this view of the matter, judgment-debtor is not entitled to the refund of the said amount.

(6) The view taken by the Court below is perfectly correct and calls for no interference by this Court. The appeal fails and is dismissed with costs

N. K. S.

(1) A.I.R. 1951, Bombay 394.

(2) A.I.R. 1952, Trav—C 236.