

GHULAM MOHAMMAD DAR

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v.

STATE OF J & K & ORS.

(C.A. No. 12 of 2008)

JANUARY 4, 2008

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[G.P. MATHUR AND P. SATHASIVAM, JJ.]

*Arbitration – Interest on award amount – High Court holding that interest @ 18% p.a. for award amount from date of decree till realization – Claimant's case that interest on decretal amount to be paid from date of Award and not from date of decree – On appeal, held: Order of High Court upheld. – Moreso, interest was to be paid by State Government – Interest.*

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An arbitrator passed an award in favour of the claimant. High Court made the award the Rule of the Court and the amount found due along with interest awarded by the Arbitrator was to be paid from the date of decree with interest at 18% till final realization of the decretal amount of the petition. Hence the present appeal.

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Appellant contended that in view of default in payment of the amount within the stipulated time, the appellant was entitled to interest @ 18% p.a. from the date of the Award and not from the date of the decree.

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Disposing of the appeal, the Court

HELD: The direction of the Arbitrator and the order passed by the High Court both in the Arbitration Petition and Revision Petition is verified. On perusal of the same and of the fact that the respondents are none other than the State Government, the order of the High Court passed in Arbitration Petition is concurred with and held that the claimant is entitled to interest @ 18% p.a. for the award amount from the date of the decree till realization. To this extent, the position is clarified. [Para 8] [15-F, G]

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A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12 of 2008

From the final Judgment and Order dated 1.2.2006 of the High Court of Jammu & Kashmir at Srinagar in C.R. No. 47/2006

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M.L. Bhat, Purnima Bhat for the Appellant.

Anis Suhrawardy and S. Mehdi Imam for the Respondents.

The Judgment of the Court was delivered by

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**P. SATHASIVAM, J.** 1) Leave granted.

2) This appeal is directed against the order dated 01.09.2006 passed by the High Court of Jammu and Kashmir at Sri Nagar in Civil Revision No. 47 of 2006 whereby the High Court dismissed the civil revision filed by the appellant herein.

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3) In view of the limited issue i.e., interest payable by the respondents, there is no need to traverse the entire factual matrix except relating to the issue in question.

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4) According to the appellant, the executing Court has wrongly interpreted the judgment passed by the High Court as well as the provisions of the Arbitration Act and erroneously refused to release the interest on the Award/decretal amount from the date of Award till passing of the decree.

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5) It is not in dispute that an Award came to be passed on 05.09.1995 which was made a Rule of the Court and accordingly decree came to be passed on 30.04.1998.

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6) It is relevant to reproduce the Award of the Arbitrator in respect of the interest which reads as under:

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“The claimant shall be entitled to 10% S.I.P.A. beyond 10.11.1995 till payment is made in full by the respondents of the full awarded amount. Respondent No.3 shall be liable to discharge and pay the final bill pending since 27.12.1993 with him failing which 18% P.A. simple interest

shall be paid over and above from 1.2.1994 till date of actual payment." A

Though there is little confusion in the direction of the Arbitrator, it is presumed that the Arbitrator has granted interest @ 10% (simple interest p.a.) from 10.11.1995 till payment is made in full by the respondents. The latter part of the said direction shows that in case of default, the Award amount carries interest @ 18% simple interest per annum from 01.02.1994 till date of actual payment. B

7) On 30.04.1998, learned single Judge of the High Court disposed of Arbitration Petition No. 171 of 1991 by passing the following order: C

"In the totality of the circumstances, I order that let award be made rule of the Court and the amounts found due along with interest awarded by the Arbitrator be paid from the date of decree with interest at 18% till final realization of the decretal amount of the petition. Let decree be prepared accordingly." D

8) Learned senior counsel appearing for the appellant, by drawing our attention to the direction of the Arbitrator as well as the ultimate order passed by the High Court, submitted that in view of default in payment of the amount within the stipulated time, the appellant is entitled interest @ 18% p.a. from the date of the Award and not from the date of the decree. In the light of the controversy, we verified the direction of the Arbitrator and the order passed by the High Court both in the Arbitration and Revision Petition. On perusal of the same and of the fact that the respondents are none other than the State Government, we agree with the order of the High Court dated 30.04.1998 passed in Arbitration Petition No. 171 of 1991 and hold that the claimant is entitled to interest @ 18% p.a. for the award amount from the date of the decree till realization. To this extent, we clarify the position. The Civil Appeal is disposed of on the above terms. No costs. E F G

N.J.

Appeal disposed of. H