

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.5181 OF 2001

Board of Trustees ...Appellant

VERSUS

Macgregor Navire Port Equipment A.B. & Anr. ...Respondents

ORDER

1. The Board of Trustees of the Port of Bombay is the appellant before us.

2. The aforesaid appeal arises out of a suit filed by respondent No.1 (Macgregor Navire Port Equipment A.B.) against the appellant and also against respondent No.2, inter alia, for an injunction restraining the appellant from encashing a bank guarantee issued by the bank at the instance of the respondent No.1. After some arguments were advanced by the learned counsel for the parties, our attention was drawn to an order of this Court dated 3rd of August, 2001 from which it appears that the appellant had invoked the bank guarantee on 29th of March, 1988. However, the bank chose not to make the payment and in fact on 28th of April, 1988, the High Court granted stay of encashment of the bank

guarantee. This Court in that order also noted that the bank guarantee in question had expired on 24th of February, 1989. This Court while passing the aforesaid order made the following direction :

“.....pending hearing of the appeal, it shall pay to the appellant the amount of the bank guarantee which was invoked on 29th of March, 1988 along with interest at the rate of 18% with quarterly rests with effect from the date of the invocation of the bank guarantee. In the event of the appeal being dismissed, the appellant would be under an obligation to return the money along with the same rate of interest.”

We are informed that the appellant has already been paid by the bank a sum of Rs. 34,38,171/-.

3. After hearing the learned counsel for the parties and after going through the impugned order and the order passed by this Court at the interim stage, as quoted herein above, we find that the appellant was entitled to get Rs.3,16,716.50 being the principal sum together with interest at the rate of 8% from 29th of March, 1988 to 28th of October, 2001. Accordingly, the parties shall calculate the aforesaid sum with the aforesaid rate of interest up to the aforesaid period and if any excess amount has been paid, the same may be refunded by the appellant to the bank within two months from the date of communication of this order.

4. With this direction, the appeal is disposed of. There will be no order as to costs.

.....J.

[TARUN CHATTERJEE]

New Delhi:
February 21, 2008.

.....J.
[HARJIT SINGH BEDI]