

CASE NO.:
Appeal (civil) 498 of 2003

PETITIONER:
S.M.S.Sandhu

RESPONDENT:
Chandigarh Administration & Ors.

DATE OF JUDGMENT: 23/01/2003

BENCH:
Brijesh Kumar & H.K.Sema.

JUDGMENT:

JUDGMENT

(arising out of S.L.P. No.15555 of 2002)

Brijesh Kumar, J.

Leave granted.

The appellant is aggrieved by the order passed by the Division Bench of the Punjab and Haryana High Court, dismissing the writ petition preferred by the appellant and refusing to interfere with the order passed in revision by the Advisor to the Administrator, upholding the demand of the interest from the appellant @ 24% on the amount of delayed payment of instalments.

Undisputedly the appellant with others purchased SCO Site No.130-131 Sector 34, City Centre, Chandigarh in an auction held on 22.2.1987 on leasehold basis at a premium of Rs.32,72,000/-. As per the requirement the appellant paid 25% of the amount of premium. In pursuance thereof a letter of allotment was issued in favour of the appellant on 13.4.1987. The balance amount of 75% of the premium was required to be paid in instalments by the year 1990. It was not paid and a dispute arose. The objection of the appellant has been that necessary development of the area was not done nor the amenities as required were being provided. Ultimately, after some opportunities were provided to him to make the payment of the amount, the lease in favour of the appellant was cancelled by the Estate Officer by order dated 7.3.1989. Interest @24% was levied as per amended sub-rule (3) of Rule 12 of the Chandigarh Leasehold of Sites and Buildings Rules, 1973. Earlier, namely, prior to 1993 the rate of interest on the delayed payment of instalment was @ 12%. It appears that a penalty to the extent of 10% was also imposed. The appellant challenged the order by filing an appeal before the Chief Administrator, Chandigarh sometime in 1992. It came to be decided on 12.9.2001. The lease was restored subject to the appellant clearing all the outstanding dues by December 31, 2001. The appellant preferred a revision petition 202 of 2001 before the Advisor to the Administrator, Chandigarh objecting to levy of interest @24%. The revisional authority upheld the demand of interest @24%. It however, found that levy of penalty @10% was exorbitant since the interest @ 24% was being charged. Hence, the penalty was reduced to 1% only. The appellant was directed to deposit the amount by 31.3.2002. The review petition preferred by the appellant was also rejected but it appears that in the meantime in compliance with the orders passed by the authorities, the appellant had been depositing the amounts due from time to time. He, however, also preferred a writ petition challenging the order passed by the revisional authority. As indicated earlier, the High

Court refused to interfere in the matter of charging interest @24%. Learned counsel for the appellant has vehemently urged that the rate of interest on delayed payment of instalments could be only @12% as per the conditions of the transaction as prevailing in 1987. It is also submitted that all the amount due has been deposited including the amount of interest @12%. Learned counsel appearing for the respondent submits that the appellant had been withholding the payment of the substantial amount of premium for a sufficiently long time on flimsy grounds. He had been enjoying the property merely on payment of 25% of the premium amount. The appellant has also constructed a building complex over the land and he has been earning out of it by way of income from rent. It is submitted that despite repeated opportunities provided to the appellant he failed to make the deposits. The fact that the appellant has raised the construction and has rental income out of the same is not denied. The submission of the appellant, however, is that the appellant is not at fault as the proceedings initiated by him in the matter took a long time to finalise.

According to the terms governing the transaction the full payment should have been made by the year 1990. These payments have, however, been made in instalments during 2001-02. The possession of the property remained with the appellant throughout. The litigation which the appellant started though has taken a long time but the fact remains that on deposit of 1/4th of the amount of the premium he had throughout been enjoying the property for more than a decade. The rate of interest was in the meantime raised to 24% on the delayed payment of instalments. Learned counsel for the respondent has drawn our attention to an order of this Court dated 12.1.2000 passed by a bench of three learned Judges in the matter of M/s.Patiala Inds.Investment Co. Pvt. Ltd. v. Union of India & Anr. From a perusal of the order it transpires that as per the amended rule, interest @ 24% was levied on delayed payment which was upheld by the High Court. It also appears that in view of the concession made by the learned Solicitor General the enhanced rate of interest at 24% was held to be chargeable only with effect from 22.7.1993 and not for the period prior to the said date. This Court thus refused to interfere in the matter otherwise. Learned counsel appearing for the respondents submit that in the present case too the interest @24% is being charged only with effect from the date of amendment in the rule and not for the period prior to the amendment enhancing the rate of interest. It is, therefore, submitted that there would be no occasion to interfere in the order passed by the revisional authority as also upheld by the High Court in the matter of charging interest @ 24%.

It is vehemently urged that the appeal is simply deserves to be dismissed without any indulgence to be shown to the appellant providing any time to deposit the balance amount on account of interest @ 24%, as prayed.

Considering all the facts and circumstances of the case as indicated above, we do not think that it is a case in which any interference is called for in the matter. But we feel that since total amount of premium as well as the amount of interest @12% stands deposited as stated on behalf of the appellant, it would not be just and appropriate that the appellant be disallowed the opportunity of depositing the difference in amount on account of enhanced rate of interest i.e. @ 24%.

In the result, we dismiss the appeal with costs but allow the appellant six weeks time to deposit the balance amount of difference in interest @24% as per demand of the respondents.