

SUPREME COURT OF INDIA

State of Rajasthan

Vs.

Ram Nath Nirottamdas Chaturvedi

C.A.No.1126 of 1973

(Y. V. Chandrachud and V. D. Tulzapurkar, JJ.)

18.01.1978

ORDER:-

1. Civil Appeal No. 1126 of 1973 is allowed and the delay of two days caused in filing C. F. A. No. 70/70 in the High Court is condoned. We remand the aforesaid appeal (C. F. A. No. 70/70) to the Rajasthan High Court for disposal in accordance with law, but subject to the following conditions:

(1) Regardless of the result of C. F. A. No. 70/70 or of any further appeal or appeals to the High Court or to this Court arising out of the present suit, the State of Rajasthan shall pay to the plaintiff (a) costs of suit No. 4 of 1957 as already awarded to him by the trial Court, (b) costs of the plaintiff in C. F. A. No. 70/70 both before and after the remand, and (c) the costs incurred by the plaintiff in this Court in C. A. No. 1126/73.

(2) In the event of C. F. A. No. 70/70 filed by the State in the High Court of Rajasthan being allowed in full, the state shall not be entitled to the payment of any interest either on the decretal amount of Rs. 1,26,710.53 or on the interest amount of Rs. 1,00,810.05 for any part of the period between the date of payment of the said amount by the state to the plaintiff and for a period of 90

days from the date on which the High Court will pass a decree in C. F. A. No. 70/70.

(3) In the event that C. F. A. 70/70 is allowed in part, the State shall not be entitled to payment of any interest on the decretal amount nor to any interest on the amount of interest as may be determined by the High Court to be refundable to the State. This clause will be operative for the period between the date/s of payment of the aforesaid amounts by the State to the plaintiff and for a period of 90 days from the date on which the High Court passes the decree in C. F. A. No. 70/70.

(4) In the event that C. F. A. 70/70 is decided in favour of the State either wholly or in part, the plaintiff shall be liable to refund to the State the decretal amount and the amount of interest which he has already received from the State or such portion of each of these amounts as may be determined to be payable by him under the decree passed against him in C. F. A. No. 70/70.

(5) The State shall not execute the decree, if any, passed in its favour in C. F. A. No. 70/70 for a period of 90 days from the date of the decree.

(6) In the event that Clause (2) or (3) above comes into operation, if the plaintiff fails to pay to the State within the period mentions in those clauses (i.e. 90 days) the amount payable by him, he shall be liable to pay interest at 6 per cent on the amount payable by him on the expiry of the period of 90 days from the date of the High Court decree until payment.

(7) Since the High Court will now be seized of C. F. A. No. 70 of 1970 in pursuance of the order of remand which we are passing today, the plaintiff will be entitled to contest the appeal on all questions of fact and law, except the question of limitation in regard to the filing of the C. F. A. No. 70/70 and he will also be entitled to file cross-objections, if he is so advised within 30 days of this order.

(8) In the even that C. F. A. No. 70/70 is decided against the plaintiff by the High Court either fully or partly, the plaintiff's right, if any to prefer an appeal or appeals therefrom either to the High Court or to this Court will remain unaffected subject to his liability to pay interest on the expiry of 90 days from the date of the High Court decree, if any such liability arises thereunder. The plaintiff will be at liberty to apply for stay of the decree passed by the High Court in the event that the aforesaid decree is against him, and

(9) In the event that C. F. A. 70/70 is dismissed by the High Court, but if the State succeeds either fully or in part, in any further appeal, the terms as to the payment of interest mentioned in Cls. (2)

and (3) above shall apply except with the modification that the plaintiff's liability to pay interest will commence on the expiry of 90 days after the decision in the further appeal that the State may file. And, the plaintiff in that event, shall not be liable to pay any interest for the period up to and inclusive of 90 days from the date of the decree.

Appeal allowed.