

**SUPREME COURT OF INDIA**

Aditya Mass Communications (P) Ltd.

Vs.

A.P.S.R.T.C.

C.A.No.7978 of 2003

(N. Santosh Hegde and B.P. Singh JJ.)

23.09.2003

**ORDER**

**N. Santosh Hegde, J.**

1. Heard learned counsel for the parties.
2. Leave granted.
3. A limited question arises for our consideration in this appeal that is, whether on facts and circumstances of this case the High Court was justified in reducing the interest on the amount to be refunded by the respondent from 12% per annum to 9% per annum.
4. Pursuant to a tender notification issued by the respondent, the appellant herein while offering his tender deposited Rs. 20 lacs with the respondent as earnest money deposit. In view of the fact that the tenders floated by the respondent could not be opened on the scheduled dates because of litigation the appellant on 11th of November, 1996 requested the respondent to return the said amount as he had withdrawn his offer. The respondent refused to refund the said amount on the ground that the said amount stood forfeited by it. The appellant challenged the same in a writ petition before the High Court of Judicature, Andhra Pradesh at Hyderabad. The learned Single Judge of the said High Court directed the respondent to refund the said amount with interest at 1% per month from the date of the filing of the writ petition.
5. The said order of the learned Single Judge was challenged by the respondent in a writ appeal wherein the appellate bench set aside the order of the learned Single Judge holding that a writ court normally does not entertain a prayer for refund of money. The appellant herein challenged the said order of the division bench by SLP in this Court which came to be dismissed on 14th August, 1998, thereupon the appellant filed a civil suit before the Chief Judge, City Civil Court, Hyderabad for a declaration which suit was resisted by the corporation, along with a counter claim against the appellant and demanding thereon interest of 36% per annum. The trial court decreed the suit of the appellant dismissed the counter

claim of the respondent. As per the said judgment and decree the respondent became liable to refund the earnest money deposit referred to herein above with 12% interest from 17.11.1996 till the date of payment.

6. The said judgment of the trial court on the civil side came to be challenged by the respondent before the High Court and the High Court while upholding the judgment and decree of the trial court modified the interest awarded by the trial Court from 12% per annum to 9% per annum.

7. It is against the above judgment, this appeal has been filed. As stated above, the only question for our consideration on facts and circumstances of this case is whether the High Court was justified in reducing the interest from 12% per annum to 9% per annum.

8. The facts narrated hereinabove clearly shows the respondent has retained the money belonging to the appellant without authority of law and has driven the appellant to series of litigations, therefore, this fact itself should have been sufficient to refuse the request of the respondent made before the High Court for reduction of rate of interest. The quantum of interest a court may allow in a given case is governed by the facts of the case and not by any precedent law unless, of course, limited by a statute. If a court comes to the conclusion on a given set of facts, a party has been wrongly denied the use of its own money, it is the duty of the court to see that the said party is appropriately compensated. In the instant case, we are of the opinion that the respondent has deprived the appellant of its rightful use of the money. Therefore, the interest awarded by the trial court to say the least was most reasonable. We also notice that the High Court has not given any reason except referring to the judgments in this Court in the case of *Sovintorg (India) Ltd. v. State Bank of India, New Delhi*<sup>1</sup> and *Ghaziabad Development Authority v. Union of India & Anr*<sup>2</sup>. As stated above, the facts of this case do not justify the application of the principle, laid down by this Court in those judgments.

9. Hence, we allow this appeal, set aside the impugned judgment of the High Court to the extent it has reduced the interest granted by the trial court from 12% to 9% and restore the interest liable to be paid by the respondent to the appellant on the retained earnest money deposit of Rs. 200 lacs to 12% as directed by the trial Court. The appeal is allowed with costs quantified at Rs. 15,000/-.

Appeal allowed.

<sup>1</sup>(1999(6) SCC 406)

<sup>2</sup>(2000(6) SCC 113)