

# SUPREME COURT OF INDIA

Board of Trustees for the Port of Calcutta

Vs.

The Port Tenants Welfare Association

C.A.No.4491/2010

(Kurian Joseph and R.Banumathi,JJ.,)

27.07.2017

## JUDGMENT

### **Kurian Joseph,J.,**

1. The appellant is before this Court aggrieved by the judgment of the High Court. The High Court has granted the facility of 36 installments for payment of arrears of rent and fixed interest @ 6% per annum. The party respondents herein had actually given up the challenge on the revision of rent before the High Court. Therefore, the High Court restricted itself only to this point. respondent(s) points out that this rate was fixed only in the peculiar facts of these cases and, therefore, the High Court apparently declined to go

2. Mr. Parag P. Tripathi, learned senior counsel appearing for the appellant submits that the rate of interest should have been 15 to 18% in terms of the rate schedule fixed by the Board under the Major Port Trusts Act, 1963. We do not think that this aspect of the matter has been gone into by the High Court. Learned senior counsel appearing for the into that aspect.

3. Learned senior counsel appearing for the appellant submits that this judgment is being used as a precedent in other cases as well. We do not think that this judgment can be used as a precedent for the purpose of fixation of rent since there is no adjudication by the High Court on that aspect.

4. Be that as it may, in view of the apprehension expressed by the learned senior counsel, we set aside the judgment of the High Court regarding fixation of interest @ 6% per annum for the arrears of rent.

5. However, having regard to the fact that these are the cases hanging between the parties for quite long and since the High Court actually wanted to give a finality, we are of the view that this Court should invoke its jurisdiction under Article 142 of the Constitution and give a quietus to the controversy.

6. Therefore, we make it clear that since the party respondents have already paid interest at the rate fixed by the High Court there shall be no further levy.

7. Needless also to say that we are constrained to pass this order in exercise of our jurisdiction under Article 142 of the Constitution of India only in the particular facts and circumstances of these cases and this shall not be treated as a precedent.

8. The appeals are, accordingly, disposed of.

9. Pending applications, if any, shall stand disposed of.

10. There shall be no orders as to costs.