

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.7544-7546 OF 2008

BHAGIRATH AGARWAL

APPELLANT (S)

VERSUS

M/S SIMPLEX CONCRETE & PILES (I) PVT. LTD.  
& ORS.

RESPONDENT (S)

WITH

C.A. NOS. 7552-7554/2008

J U D G M E N T

KURIAN, J.

C.A. NOS. 7544-7546/2008

1. The appellant is aggrieved since he has been denied interest for the arrears of rent vide order dated 22.05.2006 passed by the City Civil Court at Calcutta in the Ejectment Suit No.717 of 1992. To the extent relevant, the order reads as follows:-

"That the petitions filed by the defendant under Section 17(2) and 17(2A) (b) of the West Bengal Premises Tenancy Act are allowed on contest without any cost. The petition filed by the

defendant for abatement of rent is dismissed on contest. The defendant is a defaulter in payment of rent since November, 1990 @ Rs.19,000/- per month. Thus the total defaulting period is 186 months i.e. since November, 1990 to April, 2006. Thus the total amount of rent payable by the defendant is Rs.19,000/- x 186 = Rs.35,34,000/-. From the submission of the ld. Lawyer it is available that the defendant already paid Rs.5 lakhs as per order of the Hon'ble Court. So the due amount is Rs.35,34,000/- - Rs.6,00,000/- = Rs.29,34,000/-. The defendant is directed to pay the above said arrear rents by ten monthly installments @ RS.3,00,000/- per installment along with current rent. The last installment will be Rs.2,34,000/-. Each installment is to be paid within the last working day of each month. The first installment is to be paid by 30<sup>th</sup> June, 2006."

2. Since the appellant was denied interest, the matter was pursued before the High Court. However, the High Court declined to interfere with the order passed by the City Civil Court and hence this appeal.

3. It is not in dispute that the respondent/tenant was permitted to pay the arrears of rent in installments. No doubt, there was a defence taken by

the respondent that the default in payment of the arrears of rent was on account of the conduct of the appellant/landlord in denying amenities. Yet the City Civil Court has directed the respondent/tenant to pay the arrears of rent in installments and there was no appeal at the instance of the respondent/tenant.

4. The view adopted by the City Civil Court seems to be that there is a discretion vest in the Court and in exercise of that discretion, taking note of the conduct of the landlord, the City Civil Court thought it fit to deny interest and permitted payment of only the defaulted arrears.

5. We are afraid, the view cannot be sustained. Section 17(2A) of the West Bengal Premises Tenancy Act, 1956 reads as follows:-

"Provided that where payment is permitted by installments, such sum shall include all amounts calculated at the rate of rent for the period of default including the period subsequent thereto upto the end of the month previous to that in which the order under this sub-section is to be made with interest on any such amount calculated at the rate specified in sub-section (1) from the date when such amount was payable upto the date of

such order."

6. The statutory provision is very clear. Whenever payment of rent including arrears is permitted to be paid in installments, the Statute contemplates that the beneficiary shall be granted interest. This is irrespective of the justification or explanation, if any, available for the non-payment. No doubt, under Section 34 in case the landlord has refused to provide the amenities and in case the tenant spent money for providing the amenities, the said amount, subject to the conditions therein, can be set off. Though, there is such a case set up by the tenant, yet no set off has been granted by the Trial Court, and the tenant was permitted to pay the dues in installments. Once the arrears are permitted to be paid in installments, there is no discretion available with the Court to deny interest. It is not a discretionary relief; it is the statutory right and entitlement of the landlord to get interest.

7. Therefore, this appeal is allowed. It is made clear that the appellant shall be entitled to interest under the West Bengal Premises Tenancy Act, 1956. No costs.

C.A. NOS. 7552-7554/2008

8. In view of the order passed in C.A. Nos. 7544-7546/2008, these appeals are disposed of. No costs.

.....J.  
[KURIAN JOSEPH]

.....J.  
[R. BANUMATHI]

NEW DELHI;  
MARCH 23, 2017.

ITEM NO.101

COURT NO.7

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S) . 7544-7546/2008

BHAGIRATH AGARWAL

APPELLANT(S)

VERSUS

M/S SIMPLEX CONCRETE & PILES (I) PVT. LTD. & ORS. RESPONDENT(S)

(With interim relief and office report)

WITH C.A. NO. 7552-7554/2008

Date : 23/03/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH  
HON'BLE MRS. JUSTICE R. BANUMATHI

For the parties

Mr. S.B. Upadhyay, Sr. Adv.  
Mr. Pawan Upadhyay, Adv.  
Mrs. Anish Upadhyay, Adv.  
Mr. P. Mishra, Adv.  
Mr. Nishan Kumar, Adv.  
Ms. Sharmila Upadhyay, Adv.

Mr. Syed Ali Ahmd, Adv.  
Mr. Syed Tanweer Ahmad, Adv.  
Mr. S.S. Bandyopadhyay, Adv.  
Mr. Mohan Pandey, Adv.

Ms. Daisy Hannah, Adv.  
Mr. Shekhar Kumar, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

C.A. Nos.7544-7546 of 2008 are allowed and C.A.  
Nos.7552-7554/2008 are disposed of in terms of the  
signed judgment.

Pending applications, if any, shall stand disposed of.

(NARENDRA PRASAD)  
COURT MASTER

(RENU DIWAN)  
ASSISTANT REGISTRAR

(Signed 'Reportable' Judgment is placed on the file)