

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1467 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 10579 OF 2012]

PRADESHIYA INDUSTRIAL DEVELOPMENT
CORPORATION LTD. U.P.

Appellant(s)

VERSUS

HINDUSTAN AERONAUTICS LTD.
(LUCKNOW DIVISION) & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO. 1471 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 8265 OF 2015]

CIVIL APPEAL NO. 1468 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 10856 OF 2012]

CIVIL APPEAL NO. 1472 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 11740 OF 2015]

CIVIL APPEAL NO. 1470 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 40164 OF 2012]

CIVIL APPEAL NO. 1469 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 40163 OF 2012]

CIVIL APPEAL NO. 1473 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 27295 OF 2016]

CIVIL APPEAL NO. 1474 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 492 OF 2018]

J U D G M E N T

KURIAN, J.

1. Leave granted.
2. Out of the eight appeals before us, in five appeals the State who is a guarantor to the bonds, by which the borrower namely, Pradeshia

Industrial Development Corporation Ltd., UP (in short, "PICUP") collected money, is before this Court, aggrieved by the Judgment dated 24.01.2012 passed by the High Court of Allahabad, Lucknow Bench, in W.P.(C) No. 2838 (M/B) of 2005 and connected matter. In other three appeals, PICUP is before this Court, aggrieved by the same impugned Judgment.

3. Since the borrower failed to comply with the terms of the bonds, the respondents approached the High Court for a direction to the State, the Guarantor, to comply with the terms of guarantee. As per the impugned Judgment, the High Court held that the State had guaranteed the payment as per the terms of the bonds, but failed to honour the same. Accordingly, a direction was issued to the State to disburse the remaining amounts at contractual rates. It is pointed out that all the respondents have been paid the principal amounts. Thus aggrieved, the State and the PICUP are before this Court in respective appeals.

4. Sh. Pramod Swarup, learned senior counsel appearing for the State and Mr. M. C. Dingra,

learned counsel appearing for PICUP, submit that the writ petition filed by the respondents for enforcing the terms of the contract was not maintainable. It is also submitted that 99% of the purchasers of the bonds had settled their disputes with a reduced rate of interest. It is also submitted that, in any case, the respondents should have sought for a remedy of inter-ministerial meeting and settled the disputes in the meeting.

5. Mr. Sunil Gupta, learned senior counsel appearing for the respondents, submits that the respondents have, in fact, suffered heavily, on many counts and in some cases, on account of the pre-mature termination of the bonds. He has also brought to our notice the order dated 15.10.2008 passed by this Court in *Civil Appeal No. 6126 of 2008 titled as "State of U.P. Vs. Hindustan Unilevers Ltd. & Ors."* along with *Civil Appeal No. 6127 of 2008*, in almost similar circumstances against the State. Repelling all the contentions taken by the appellants, some of which are referred to above, this Court passed the following order in the above referred cases :-

"Leave granted. Heard the learned counsel.

2. The U.P. Cooperative Spinning Mills Federation Ltd. (hereinafter 'Federation', for short) invited applications for private placement of debenture bonds in the year 1998 representing that the repayment thereof was unconditionally and irrevocably guaranteed by the U.P. Government. The State Government issued Government Order dated 12.8.1998 guaranteeing the repayment of the principal and interest in respect of debenture bonds issued by the U.P. Cooperative Spinning Mills Federation Ltd.

3. Acting on the invitation for private placement of applications, and in view of the guarantee by the State Government, the first respondent invested Rs.15,00,000/- (Rupees fifteen lakhs only) from the provident fund deposits of its employees, in the said bonds. The Federation issued an allotment letter dated 25.12.1998 confirming that the amount invested will carry interest @ 14.9% p.a. and the bonds will be redeemed at the end of 48 months, 54 months and 60 months at the rate of 33%, 33% and 34% respectively.

4. The Federation sustained losses and went under liquidation. It did not redeem the bonds as agreed and undertaken, in spite of demands. The amounts due were not paid except part payment of Rs.1,73,980/- and Rs.1,15,118/- in all Rs.2,89,098/- towards interest. As the amounts due under the bonds and interest were not paid by the State Government in terms of guarantee, inspite of demand for payment, the respondent approached the Delhi High Court for relief. The High Court, by order dated 21.11.2005, directed the State Government, as guarantor, to pay the sum of Rs.15,00,000/- (Rupees fifteen lakhs) with interest at the rate of 14.9% (the rate agreed under the bonds) less amounts already paid. The said order is challenged in these two appeals by the State Government and the Federation.

5. Though several contentions were urged by the State Government and the Federation, when the matter came up today, the learned counsel for the State Government handed over a Pay Order for Rs.15,00,000/- (Rupees fifteen lakhs) to the learned counsel for respondent towards the refund of the principal amount. In regard to

interest, the learned counsel for the Federation and the State Government submitted that as the Federation is under liquidation and as the State Government has paid the principal amount, the respondent should be relegated to other remedies in law for recovery of interest.

6. Such a contention is not tenable. The amount invested by first respondent belongs to the workmen of first respondent. The amount was invested in the bonds of the Federation in view of the express guarantee by the State Government that the same will be repaid with interest upto 15.5% p.a. The very purpose of the State Government guarantee is to ensure payment in case the Federation was not able to make payment. In the circumstances, the fact that the Federation is in financial difficulties cannot be a ground for the State Government to say that it will not make payment of interest, even though it had guaranteed the repayment with interest. If such a contention is accepted, the very purpose of the guarantee will be defeated. We are indeed surprised that such a plea is put forward on behalf of the State of Uttar Pradesh.

7. In the circumstances, we are of the view that the State Government should pay the interest also. However, on the facts and circumstances, we are of the view that interest should be paid at the rate of 14.9% p.a. for a period of five years from the date of deposit and thereafter at the rate of 9.5% per annum (which is equal to the minimum rate of interest that is payable by the first respondent to its workers on the provident fund dues). The above concession regarding interest is granted on the peculiar facts of these appeals. Three months' time is granted to the Government of Uttar Pradesh to pay the balance of interest.

8. Appeals are disposed of accordingly. Parties to bear their respective costs."

6. Having regard to the submissions made by the learned counsel on both sides, we are of the view that as in the case of State Vs. Hindustan Unilevers (supra), this is also a fit case where this Court should invoke its discretion under Article 142 of the Constitution of India to do complete justice between the parties and to put an end to the entire litigations. Accordingly, in the peculiar facts of these cases, these

appeals are disposed of as follows :-

- i) The respondents shall be entitled to the contractual rate of interest as per the bonds, till the principal amounts were repaid.
- ii) From that date, the respondents shall be paid interest at the rate of 11%.
- iii) The payment shall be made positively within a period of three months from today.
- iv) In case the payments are not made within the stipulated period, the respondents shall be entitled to interest at the rate of 18% and the officer(s) responsible for the delay will be personally liable for the same.

No costs.

.....J.

[KURIAN JOSEPH]

.....J.

[MOHAN M. SHANTANAGOUDAR]

New Delhi;
February 01, 2018.

ITEM NO.13

COURT NO.5

SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to appeal (C) NO. 10579 OF 2012

PRADESHIYA INDUSTRIAL DEVELOPMENT
CORPORATION LTD. U.P.

Petitioner (s)

VERSUS

HINDUSTAN AERONAUTICS LTD. (LUCKNOW DIVISION)
& ORS.

Respondent(s)

WITH

SPECIAL LEAVE PETITION (C) NO. 8265 OF 2015

SPECIAL LEAVE PETITION (C) NO. 10856 OF 2012

SPECIAL LEAVE PETITION (C) NO. 11740 OF 2015

SPECIAL LEAVE PETITION (C) NO. 40164 OF 2012
(Application for Directions ON IA 39256/2017)

SPECIAL LEAVE PETITION (C) NO. 40163 OF 2012

SPECIAL LEAVE PETITION (C) NO. 27295 OF 2016

SPECIAL LEAVE PETITION (C) NO. 492 OF 2018]

(IA No.128330/2017-CONDONATION OF DELAY IN FILING and IA
No.128333/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
and IA No.128332/2017-CONDONATION OF DELAY IN REFILING)

Date : 01-02-2018 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

Counsel for the
parties

Mr. Pramod Swarup, Sr. Adv.
Ms. Alka Sinha, Adv.
Mr. Anuvrat Sharma, AOR

Mr. Sunil Gupta, Sr. Adv.
Mr. Jatin Zaveri, AOR
Mr. Neel Kamal Mishra, Adv.

Mr. Vishnu Sharma, AOR
Ms. Anupama Sharma, Adv.
Ms. Goutami Budhapriya, Adv.
Ms. Sonali Negi, Adv.

Mr. Ajay Sharma, AOR
Mr. Jitender Kumar Mohapatra, Adv.
Mr. Rajeev Sharma, Adv.
Ms. Neelam Sharma, Adv.

Mr. Roopansh Purohit, Adv.
Mr. Harsh Panwar, Adv.

Mr. Preet Pal Singh, Adv.
Mr. Ashim Vachher, Adv.
Mr. P. Mehta, Adv.

Mr. M. C. Dhingra, AOR
Mr. Gaurav Dhingra, Adv.

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

Leave granted.

The appeals are disposed of in terms of the signed
non-reportable Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)