
(1872) 07 CAL CK 0001

Calcutta High Court

Case No: Miscellaneous Regular Appeal No. 81 of 1872

Madan Thakur

APPELLANT

Vs

Felix Lopez and
Another

RESPONDENT

Date of Decision: July 2, 1872

Final Decision: Dismissed

Judgement

Baylay, J.

We think there can be no doubt whatever in this case. The order of the Privy Council was in these terms (reads.)

Three objections have been taken in this "appeal: firstly, that the costs of translation and printing should not have been allowed to the decree-holder: secondly, that no interest should have been allowed on those costs; and, thirdly, that no interest should have been allowed on the sum of 2276. 13s. 3d. allowed as costs by the Privy Council.

2. The Full Bench decision of Mosoodun Lall v. Bhaskares Sing 6 W.R., Mis., 109 has been very much relied upon by the appellant to show that we should not go beyond the terms of the decree, and it is contended that as there is nothing in the decree specified to show that the charges for translation or printing are to be calculated as costs of these Courts, or that any interest was awarded either on those charges or on the 2276 12s, 2d. awarded as costs by the Privy Council, none of these items should have been allowed.

3. Now it is quits clear that what is affirmed by the Privy Council in the decree of the Zilla Court of Bhaugalpore dated the 9th February 1866 with costs in the Courts below. The "Courts below" included also the High Court. In the High Court the cost of translation and printing bad to be undergone. It was a coat actually incurred and necessary to be incurred by the parties, and therefore the terms of the decree of the Privy Council in this case clearly include the charges for translation and printing as costs in the Courts below.

4. The only cases in which the question of translation and of printing being included as costs had been before this Court are one heard by Mark by, J., sitting in the Privy Council Department on the 20th May 1879², and one by Ainslie and Paul, JJ.³. In both the cases the result of the orders passed is that the charges for translation and printing should be allowed as costs. Under these circumstances it seems to me that the first ground of appeal must fail.

5. As regards the second objection it appears that the decree of the Zilla Court, which is the decree affirmed by the Privy Council and which has now to be executed, gives interest on the costs incurred. Now the charges for translation and printing are also costs incurred. The money has been actually expended by the parties, and as the decree provides for interest on the costs, the decree holder should not lose the interest on such costs.

6. As regards the third objection, viz., as to the interest on the 2276 awarded as principal costs by the Privy Council in England, it is clear from the terms of the order of the Privy Council that a distinction is drawn between the costs allowed by that tribunal and the costs incurred in the Courts below. It seems to have been the intention of the Privy Council to make the 2276 12s. 2d. a part of their own order for costs. No provision is there made for any interest on that sum, and we therefore think that no interest ought to be allowed on that sum.

7. The result of our order, therefore, is that the order of the lower Court is affirmed except in so far as it awards interest on the 2276 12s. 2d. awarded as costs by the Privy Council. Under the circumstances we think that each party should bear his own costs of this appeal.

¹ See *Rajah Lilanand Sing v. Maharaja Luckimpur sing Bahadur*, 5 B.L.R., 605.

² *Saroda Prasad Mullick v. Lachmipat Ali*, ante, p. 23.

³ *Mussamat Umatal Fatima v. Ashur Sing*, Dugar, ante p. 23.