

Sakharam Govinda Vs Dagadu Miran

Court: Bombay High Court

Date of Decision: July 10, 1912

Acts Referred: Dekkhan Agriculturists Relief Act, 1879 " Section 13(g)

Citation: (1912) 14 BOMLR 739

Hon'ble Judges: Narayan G. Chandavarkar, Acting C.J.; Batchelor, J

Bench: Division Bench

Judgement

Narayan Chandavarkar, Kt., Acting C.J.

1. The lower appellate Court has not carried out the intention of the Dekkhan Agriculturists Relief Act in disallowing future interest. That Court has

refused future interest merely because it says:-" Thus after satisfying the interest, Rs. 813-15-3 could be appropriated towards the payment of the

principal, and the balance due for principal was only Rs. But it is difficult to see how the figure which the learned Judge in the Court below has

given in support of his order as to future interest affects the question at all.

2. It is argued here for the respondent that under the Dekkhan Agriculturists Relief Act it was open to the lower Court to refuse future interest, that

is, interest claimed from the date of the institution of the suit up to the date of the decree. That argument is not supported either by the express

language of the Act or by anything which may be inferred from its provisions.

3. In Section 13, Clause (g), the Legislature points out how the amount due is to be ascertained. It says that the amount shall be ascertained by

taking an account up to the date of the institution of the suit.

4. Then there is the general law that a party is entitled to interest on the amount due from the date of the institution of the suit to the date of

realization, at all events, up to the date of the decree. What is there in the language of the Dekkhan Agriculturists Relief Act to take away that right?

Expressly the Legislature has not taken away the right of the decree-holder.

5. But the respondent's pleader relies upon the language of Section 15B. That language again does not support the argument. All that Section 15B.

lays down is that the Court has a discretionary power in passing a decree for redemption to direct that any amount payable by the mortgagor under

the decree shall be payable in such instalments, on such dates and on such terms as to the payment of interest as it thinks fit. That means,

reasonably construed, that in making an order as to payment by instalments, the Court shall direct how those instalments with interest are to be

paid. The language does not negative the right to future interest which is allowed by the general law.

6. On this ground the decree of the lower Court must be varied by directing that future interest from the date of the suit up to the decree shall be

allowed at the rate of six per cent, on the amount found due by the Court below at the date of the institution of the suit, that is, Rs. 749-1-3, and at

three per cent, from the date of the decree up to realization.

7. The appellants must have proportionate costs in this and in the lower appellate Court.