OCD-1

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL APPELLATE DIVISION
ORIGINAL SIDE

RVWO/35/2025
IA No. GA-COM/1/2025

PRAKASH KUMAR THAKER
-VS-
THE JHARKHAND STATE CO-OPERATIVE LAC MARKETING AND PROCUREMENT FEDERATION LIMITED

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
-AND-
The Hon'ble JUSTICE BISWAROOP CHOWDHURY

For the Review Applicant : Mr. Suvasish Sengupta, Adv.
Mr. Avijit Dey, Adv.

HEARD ON : 12.11.2026

DELIVERED ON : 12.11.2026

DEBANGSU BASAK, J.:-

1. Review is directed against judgment and decree dated July 3, 2025 passed in AD-COM/5/2024 with CS/634/2001 IA No. GA-COM/3/2025 by the Co-ordinate Bench.

2. Review proceeding is specially assigned to this Bench.

3. GA-COM/1/2025 is an application for condonation of delay in filing the memorandum of review.

4. The department reports a delay of 37 days in preferring the memorandum of review.

5. Considering the averments made in the petition seeking condonation of delay and for the ends of justice we deem it appropriate to condone the delay.

6. In such circumstances, delay in making and filing the memorandum of review is condoned. IA No. GA-COM/1/2025 is allowed.

7. None appears for the respondent despite service. Respondent though was represented on the previous date.

8. Learned advocate appearing for the review applicant draws the attention of the Court to the paragraph 104 of the impugned judgment and decree. He submits that, the Court, did not award interest for the period prior to the institution of the suit, during the pendency of the suit and post the decree. He relies upon **2026 SCC OnLine Cal 7834 (B. N. Nobbis and Co & Ors. -vs- Kamales Mallik & Ors.)** in support of the proposition, that, the review is maintainable.

9. Relying upon **(2009) 7 SCC 372 (Thazhathe Purayil Sarabi & Ors. -vs- Union of India & Anr.)**, learned advocate appearing for the review applicant submits that, interest should be awarded with regard to the pre-institution, pendency period as also post the decree. He submits that, the Co-ordinate Bench erred in not awarding any interest.

10. Learned advocate appearing for the review applicant in his usual fairness submits that, decretal amount in terms of paragraph 104 of the judgment and decree under review was

tendered by the judgment debtor to the review applicant within a period of four weeks as specified therein.

11. Review cannot be treated as an appeal in disguise. What the review applicant seeks is reappreciation of the evidence to arrive at a finding as to whether or not the Co-ordinate Bench was correct in passing the decree with regard to the amount specified therein as also not awarding interest for the period of pre-institution of the suit, during the pendency of the suit as also the post the decree.

12. We find from the records that the judgment and decree under review contains elaborate reasons in arriving at the finding which are recorded in paragraph 104 thereof. The Co-ordinate Bench in its discretion proceeded to pass a decree for a quantified amount. It proceeded to permit the defendant in the suit to pay the decretal amount within a period of four weeks, failing which, interest was to commence.

13. It is not the case that the Co-ordinate Bench did not award interest at all. What the Co-ordinate Bench did was allowed the defendant a period of time to pay the decretal amount without interest. Failure to pay the decretal amount within the period specified, attracted interest at the rate awarded.

14. There is no error apparent on the face of the record for the Court to undertake review.

15. In **B. N. Nobbis and Co & Ors. (Supra)** on review, the Co-ordinate Bench found that the disputes involved were

commercial disputes within the meaning of the Commercial Courts Act, 2015 and, therefore, reviewed a portion of the judgment under review therein to direct the matter to be placed in the Commercial Division. Such is not the case here.

16. The ratio laid down in **Thazhathe Purayil Sarabi & Ors. (Supra)** is not attracted in the facts and circumstances of the present case. Here, as noted above, there are elaborate discussions as to the arrival of the finding recorded in paragraph 104 of the judgment and decree under review.

17. In such circumstances, we find no merit in the present review proceeding.

18. RVWO/35/2025 is dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

19. I agree.

(BISWAROOP CHOWDHURY, J.)

sp3