

Bindeshri Prasad and ors. Vs. Jag Prasad Rai and ors.

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SooperKanoon Citation : sooperkanoon.com/481764

Court : Allahabad

Decided On : May-04-1922

Reported in : AIR1922All335; 69Ind.Cas.758

Judge : Lindsay and ;Gokul Prasad, JJ.

Appellant : Bindeshri Prasad and ors.

Respondent : Jag Prasad Rai and ors.

Judgement :

1. The only question to be considered in this appeal is whether the rate of interest allowed by the lower Appellate Court is reasonable or not. The Suit was a suit to enforce a mortgage executed in the month of November 1907. The rate of interest provided by the bond was 12 1/2 per cent, per annum compoundable yearly. The Court of first instance held that it was for the plaintiffs to show that there was a legal necessity for the taking of the money at such a high rate of interest and having regard to the value of the security and to certain other circumstances the learned Subordinate Judge reduced the rate to 12 1/2 per sent, simple. On appeal the learned Additional Judge after referring to the cases reported as Bhukhi Sahu v. Kodai Panday 50 Ind. Cas. 814 : 17 A.L.J. 580 and Ram Khelawan v. Ram Nares Singh 51 Ind. Cas. 52 : 17 A.L.J. 738 : 1 U.P.L.R, (A.) 97 : 41 A. 609 held that in the circumstances a rate of 18 per sent, per annum simple would be a reasonable rate and he altered the degree of the first Court accordingly.

2. It has been argued before us that the learned Judge has taken a wrong view of the rulings referred to by him and that he seems to have treated these rulings as authority for the proposition that 18 per cent, per annum simple is the normal rate at which interest should; be allowed in such cases. It is pointed out that in other cases a lower rate has been awarded. We have been referred to a case in which interest was allowed at the rate of 12 per cent, simple. No hard and fast rule can be laid down in such matters. The question in each case is 'what is a reasonable rate of interest,' and the finding as to the reasonable rate of interest appears to us to be really a finding of fact. Moreover, if it is within the discretion of the Courts below, as it is, to interfere in cases like this with the contract rate of interest, this Court sitting in appeal would not be justified in interfere with the exercise of the lower Appellate Court's discretion unless it is made to appear that this discretion was arbitrarily exercised. Having regard to all the facts we do not think it proper to interfere with the judgments of the Courts below on this point. This is the only matter which has been argued before us. We dismiss the appeal with costs including in this Court-fees on the higher scale. The cross-objections filed by the plaintiffs-respondents are also dismissed with costs to the opposite party.