

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

**Civil Appeal No. 10/2018
In
CPLA No. 87/ 2014**

Shakeel Ahmed & 08 others

Petitioners.

Versus

Chief Engineer GB & 03 others

Respondents.

PRESENT:-

1. Mr. Muhammad Issa senior Advocate alongwith Malik Shafqat Wali senior Advocate, Mr. Manzoor Ahmed Advocate, Mr. Latif Shah Advocate and Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. The Advocate General Gilgit-Baltistan alongwith Mr. Saeed Iqbal, Deputy Advocate General for respondents.

DATE OF HEARING: - 11.04.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned judgment dated 12.03.2014 in Civil First Appeal No. 01/2013 passed by the learned Chief Court whereby the said Civil First Appeal filed by the petitioners was dismissed being meritless, hence, this petition for leave to appeal. This court vide order dated 08.04.2016 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that the petitioners filed Civil Suit No. 57/1989 for recovery of Rs. 78,54,548/- with compound interest in the Court of learned Civil Judge Gilgit which was decreed in favour of the petitioners vide judgment dated 08.04.2002. The petitioners/deed holders filed the execution

petition No. 04/2007 in the learned Trial Court for recovery of the decretal amount. The respondents/judgments debtors joined the execution proceedings of the learned Trial Court and filed their objections regarding the correctness of calculation of the compound interest. The parties time and again have approached the superior Courts against different calculations of the compound interest through different commissions etc. The learned Trial Court referred the question of calculations of the compound interest to a commission, one nominated by the petitioners/decreed holders another nominated by the respondents/judgment debtors. The said constituted commission filed two different calculations of the compound interest. On the basis of the said calculations filed by the commission, the learned Trial Court passed the order in favour of the petitioners/decreed holders.

3. The learned counsels for petitioners submit that the petitioners/decreed holders are entitled to recover the compound interest. They also submit that the respondents/ judgment debtors despite depositing the decretal amount in accordance with Order 21 Rule 23 CPC filed objection petition which is contrary to law and facts. Per learned counsels, the learned Chief Court fell in error while refusing to grant any compound interest on the decretal amount from respondents/judgment debtors. They submits that the impugned judgment dated 12.03.2014 in Civil First Appeal No. 01/2013 passed by the learned Chief Court is the result of misreading and non-reading of the facts and other material on

record. They pray that the impugned judgment may graciously be set aside.

4. On the other hand, the learned Advocate General supports that impugned judgment passed by the learned Chief Court. He contends that the petitioners/decreed holders are not entitled to recover the compound interest on the decretal amount from respondents/judgment debtors. He also contends that the calculation of compound interest conducted by the commission members nominated by the petitioners/decreed holders is not fit to be acted upon. Per learned Advocate General, the petitioners/decreed holders were/are malafidely using delaying tactics as delay in recovery of decretal amount which is beneficial to the petitioners. He submits that the learned Chief Court has rightly dismissed the Civil First Appeal of the petitioners/decreed holders. He prays that the impugned judgment passed by the learned Chief Court may pleased be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the well reasoned impugned judgment passed by the learned Chief Court as well as the order dated 03.12.2012 passed by the learned Executing Court. The learned Advocates for the petitioners also could not point out any infirmity or illegality in the impugned judgment. In our considered view, the learned Courts below have passed its judgments/orders in accordance with law and facts of the case. The learned Chief Court has rightly observed that the

delay in payment of the decretal amount was caused by the petitioners, therefore, no relief can be granted to them for such period.

6. In view of the above discussions, no indulgence of this court is warranted into the impugned judgment, we, therefore, convert this petition into an appeal and the same is dismissed. Consequent thereto, the impugned judgment dated 12.03.2014 in Civil First Appeal No. 01/2013 passed by the learned Chief Court is affirmed. The learned Executing Court, however, in case of any confusion in calculating the interest on decretal amount, may seek the assistance from the office of the Auditor General Gilgit-Baltistan and/or by appointing a Chartered Accountant firm on payment of agreed professional fee payable by the decree holder.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.