

CASE NO.:
Appeal (civil) 5621 of 2004

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Navdeep Chaudhary

DATE OF JUDGMENT: 31/08/2004

BENCH:
S. N. VARIAVA & ARIJIT PASAYAT

JUDGMENT:
J U D G M E N T
(Arising out of SLP) No.13904 of 2003)

S. N. VARIAVA, J.

Delay condoned.
Special leave granted.

Before this Court a large number of Appeals have been filed by the Haryana Urban Development Authority and/or the Ghaziabad Development Authority challenging Orders of the National Consumer Disputes Redressal Commission, granting to Complainants, interest at the rate of 18% per annum irrespective of the fact of each case. This Court has, in the case of Ghaziabad Development Authority vs. Balbir Singh reported in (2004) 5 SCC 65, deprecated this practice. This Court has held that interest at the rate of 18% cannot be granted in all cases irrespective of the facts of the case. This Court has held that the Consumer Forums could grant damages/compensation for mental agony/harassment where it finds misfeasance in public office. This Court has held that such compensation is a recompense for the loss or injury and it necessarily has to be based on a finding of loss or injury and must co-relate with the amount of loss or injury. This Court has held that the Forum or the Commission thus had to determine that there was deficiency in service and/or misfeasance in public office and that it has resulted in loss or injury. This Court has also laid down certain other guidelines which the Forum or the Commission has to follow in future cases.

This Court is now taking up the cases before it for disposal as per principles set out in earlier judgment. On taking the cases we find that the copies of the Claim/Petitions made by the Respondent/Complainant and the evidence, if any, led before the District Forum are not placed in the paper book. This Court has before it the Order of the District Forum. The facts are thus taken from that Order.

In this case, the Respondent was allotted a plot bearing No. 553 in Sector-45, Gurgaon, on 2nd February 1998. At the time of allotment price of plot was fixed at Rs.6,80,262/-. It was then enhanced to Rs.9,57,117/- pursuant to an Award of a Court. However, the High Court thereafter reduced the Award and by the reduction the price became Rs.6,53,400/-. The Appellants did not recalculate the price in terms of High Court Award and did not also carry out development work. As the possession was not being delivered at the correct price the Respondent filed a complaint.

The District Forum by its Order dated 24th December 2001, awarded interest @ 15% after two years from the date of deposit till the offer of possession. It also awarded Rs. 2 lacs as escalation in the cost of construction and a further amount of Rs.25,000/- as costs. The State Commission increased the rate of interest from 15% to 18%, but

set aside the Award of Rs. 2 lacs. The National Commission has dismissed the revision.

We are told that interest @ 12% has been paid and/or is adjusted against the amount payable by the Respondent. Possession has also been offered on 15th March 2001. In our view, as the possession is being delivered, interest @ 12% is sufficient. We, therefore, maintain the Order of the State Commission, save and except that interest shall be paid @ 12%. The Appellants to forthwith pay to the Respondent the sum of Rs.25,000/- and balance payment of interest @ 12%, if any, remaining payable. The Respondent is at liberty to take possession. The Appellants to inform the Respondent that he can take possession at the rate of Rs.6,53,400/-.

The Appellants shall deliver possession without demanding any higher amount. They can however insist on registration charges being paid.

We clarify that this Order shall not be taken as a precedent in any other matter as it has been passed by taking into account special features of the case. The Forum/Commission will follow the principles laid down by this Court in the case of Ghaziabad Development Authority vs. Balbir Singh (supra) in future cases.

With these directions, the Appeal stands disposed off with no order as to costs.