

CASE NO.:  
Appeal (civil) 7224 of 2002

PETITIONER:  
Ghaziabad Development Authority

RESPONDENT:  
Chander Bhan Singh

DATE OF JUDGMENT: 18/08/2004

BENCH:  
S. N. VARIAVA & ARIJIT PASAYAT

JUDGMENT:  
J U D G M E N T

S. N. VARIAVA, J.

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 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 applied for a house in Govindpuram Extension/Sadhna Duplex Residential Scheme. The entire amount was deposited. Ultimately the Respondent was issued a reservation letter in Karpuripuram Scheme, but even in this Scheme the possession of the house was not delivered nor any particular house allotted to him. The Respondent therefore filed a complaint before the District Forum.

While the matter was pending before the District Forum the Respondent was given an option to take a house in Govindpuram HIG Duplex at an increased price of Rs.6,15,000/-. The Respondent could not afford the increased price and therefore was not willing to take the house.

The District Forum directed refund of all amounts with interest at the rate of 18% p.a. The State Forum dismissed the Appeal with costs of Rs.2,000/-. The National Forum also dismissed the Revision. In respect of Karpuripuram Scheme, this Court has, in its Order in the case of Ghaziabad Development Authority vs. Balbir Singh

(supra), held as follows:

"21. In a scheme known as "Karpuripuram Scheme" plots were allotted, monies collected. However, thereafter the Scheme was cancelled. In some of the matters we have seen that the District Forum has recorded that the authority could give no explanation as to why the Scheme was cancelled. Before us some sort of explanation is sought to be given. In our view, irrespective of whether there was genuine reason to cancel or not, the monies must be returned with interest at the rate of 18%. We say so because it is clear that even if the body has not already floated another scheme on the same land it is clear that the body is going to derive great profit from this land and therefore compensating the allottee with interest at 18% per annum is just and fair.

22. In Civil Appeal No. 7224 of 2002 the respondent had applied for a house in a scheme floated in 1992. He had paid the entire cost. He had been allotted a flat and issued a reservation letter. Yet no possession was given. Thereafter, in 1996 the respondent was informed that for unavoidable reasons the house has been allotted to somebody else and if he desires, he can obtain an alternate flat at a much higher price. This, therefore, is also a case where there is absolutely no justifiable reason why the party has not been delivered possession of the flat which had been allotted to him nor has any offer been made to return his money with interest. Instead the body has asked the party to apply for an alternate flat at a higher rate. In our view, on these facts the award of interest at the rate of 18% is justified. It is not just interest on the amount invested but is also compensation for the harassment and agony caused to the allottee. We have given these two instances only by way of illustrations."

Thus, no interference is called for with the award of interest at the rate of 18% p.a. as the Karipuripuram Scheme stood cancelled.

We are told that interest at the rate of 12% p.a. has been paid vide Cheques dated 5th September, 2000 for Rs.96,000/- and dated 4th September, 2002 for Rs.53,793/-. The Appellants have, however, deducted TDS. The Appellants must now pay interest at the rate of 18% p.a. calculated from the date they received each deposit till date of payment. The Appellants are directed to refund the TDS amount deducted along with interest at the rate of 18% p.a. thereon to the Respondent for reasons set out in our Judgment delivered today in Civil Appeal No. 8400 of 2002. Along with the payment they should also handover a calculation sheet to the Respondent showing how they have calculated the interest amount.

We clarify that this Order shall not be taken as a precedent in any other matter having been passed on account of the 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.

The Appeal is disposed off accordingly.