

CASE NO.:
Appeal (civil) 7560 of 2002

PETITIONER:
Ghaziabad Development Authority

RESPONDENT:
Ram Chandra Srivastava

DATE OF JUDGMENT: 28/07/2004

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 was allotted a flat in the MIG Self Financing Scheme, Govindpuram in 1988. The Respondent paid all dues but was not offered possession. The Respondent was in the meantime staying in rental accommodation and paying Rs. 2,000/- per month. The Respondent thus filed a complaint.

On these facts, the District Forum has recorded that possession of the flat must be given within 2 months. The District Forum has also awarded interest on the amounts, which remained deposited with the Appellants at the rate of 15% p.a.

The State Forum confirmed the Award. The Respondent did not go in Revision before the National Commission. The Appellants went in Revision before the National Commission. The National Commission has increased the rate of interest to 18% p.a.

For reasons set out in the Judgment in the case of Ghaziabad Development Authority vs. Balbir Singh (supra), the order of the

National Commission cannot be sustained. As stated above, the relevant papers regarding the claim made, the affidavits filed, the evidence submitted before the District Forum are not produced before this Court. In this case possession has been given in 1995. The District Forum has not awarded compensation for mental agony and harassment. Where possession is given at old rate, the party has got benefit of escalation in price of land. Thus there cannot and should not also be award of interest on the money. But considering the fact that the allotment was in 1988 and possession given only in 1995 and in the meantime Respondent had to stay in rental accommodation and pay Rs. 2,000/- per month he has suffered a loss. He has also suffered mental agony and harassment. He should have been compensated for these. We assume that the District Forum has awarded interest at 15% p.a. taking these factors into consideration. We clarify that in future compensation under those heads must be given adequately. In this case we do not interfere as the amount of interest of 15% per annum makes up for the compensation which should have been granted under the heads of mental agony, harassment and loss. We feel that in this case the Order passed by the District Forum is just and proper and calls for no interference. We, therefore, set aside the Order of the National Commission and restore that of the District Forum. We are told that interest at the rate of 15% has been paid.

We clarify that this Order shall not be taken as a precedent in any other matter as the order is being passed 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.

This Appeal is accordingly allowed. There will be no order as to costs.