

CASE NO.:  
Appeal (civil) 5122 of 2004

PETITIONER:  
Haryana Urban Development Authority

RESPONDENT:  
Shakuntala Devi

DATE OF JUDGMENT: 10/08/2004

BENCH:  
S. N. VARIAVA & ARIJIT PASAYAT

JUDGMENT:  
J U D G M E N T  
[Arising out of SLP (C) No. 13047 of 2003]  
(WITH Civil Appeal No. 5123 of 2004  
[Arising out of SLP ) No. 13049/2003])

S. N. VARIAVA, J.  
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 in the paper book. This Court has before it the Order of the District Forum. The facts are thus taken from that Order.

In these cases the Respondent (in C.A. No.5122 of 2004 [Arising out of SLP (C) No. 13047]) was allotted two plots bearing Nos. B-SE-III No. 31 and 43 in Model Town, Kalanwali. The Respondent (in C.A. No.5123 of 2004 [Arising out of SLP (C) No. 13049]) was allotted two plots bearing Nos. B-SE-III No. 18 and 30 in Model Town, Kalanwali, from Punjab New Mandi Township which later on merged with HUDA. The Respondents have paid all dues. But the possession was not offered.

On 9th December, 1994 offer for possession was given to the Respondents by the Appellants. However, the Respondents refused to accept the same.

On the facts, the District Forum held that the Respondents are entitled to interest at the rate of 15% on the amounts deposited by the Respondents after one year from the date of auction till the date of offer of possession. The District Forum further directed payment of Rs.5,000/- towards mental tension and harassment and Rs.1,000/- as litigation charges.

The State Forum partly allowed the Appeals filed by the Appellants by modifying the order of the District Forum to the extent that interest was held to be payable after two years from the date of deposit. The Respondent did not go in Revision before the National Commission. The Appellants went in Revision before the National Commission. The National Commission has awarded the interest 18% p.a. allowable after two years from the date of the respective deposits.

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 and is hereby set aside. We are told that possession has been taken of all plots in 1997 and 1998. Under these circumstances, in our view, the Order of the State Forum was fair and correct. It stands restored.

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.

These Appeals are disposed of accordingly. There will be no order as to costs.