

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.826 OF 2009

(Arising out of S.L.P. (C) No.24578 of 2005)

Binay Krishna

...Appellant(s)

Versus

Bihar State Housing Board

...Respondent(s)

O R D E R

Leave granted.

In response to an advertisement issued by the respondent-Bihar State Housing Board (for short, “the Board”), in 1978, the appellant deposited a sum of Rs.5,000/- for allotment of a plot. After thirteen years, he was informed about allotment of plot measuring 1825 sq. ft. and was asked to deposit Rs.35,530/-. The appellant deposited the required amount on 28.10.1991, but possession of the plot was not given to him. The complaint filed by the appellant was disposed of by the State Consumer Disputes Redressal Commission, Bihar (for short, “the State Commission”) vide its order dated 6th July, 1995 whereby the Board was directed to pay interest on the amount of Rs.35,530/- @ 18% per annum from the date of deposit till the delivery of possession of the plot. The Board was also directed to pay Rs.30,000/- by way of compensation and Rs.1,000/- towards litigation cost. The Board challenged that order by filing an appeal before the National Consumer Disputes Redressal Commission (for short, “the National Commission”) which was registered as

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First Appeal No. 494/1995. By an order dated 8th February, 1996, the National Commission declined to stay the award of interest, but directed that the payment of Rs.30,000/- as compensation will not be enforced till disposal of the appeal, if the Board pays a sum of Rs.15,000/- within one month along with interest.

As the Board failed to comply with the aforesaid interim order, the National Commission by its order dated 29th November, 2001, dismissed the appeal. That order was set aside by this Court in C.A. No.2304 of 2004 and the National Commission was directed to dispose of the appeal on merits in accordance with law.

After remand, the National Commission passed the impugned order wherein it came to be recorded that the appellant made a statement that he was not interested in the allotment of plot. The National Commission reduced the rate of interest from 18% to 5% albeit without assigning any reason. Hence, this appeal by special leave.

On 2.1.2006, this Court, after taking note of the statement made by the appellant that he is very much interested in the plot because at the age of 76 years he has no shelter, directed him to approach the National Commission by filing appropriate application. Thereafter, the appellant filed an application for modification of order dated 4th July, 2005. The same was dismissed by the National Commission vide its order dated 11th August, 2006.

Heard the appellant, who has appeared in-person.

A perusal of the record shows that the appellant has been continuously making complaint regarding non-delivery of possession of the plot. This was the categorical position taken by him before the State Commission. In the special leave petition, he made a specific grievance that he did not make any statement before the National Commission that he was

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not interested in taking possession of the plot. The Board has not filed reply to controvert this assertion. Therefore, it is reasonable to take the view that the National Commission, under some mistaken impression made a recording in its order dated 4th July, 2005 about the statement allegedly made by the appellant that he was not interested in the allotment of plot. Therefore, dismissal of the application filed by the appellant for modification of that order was not at all justified.

We are also of the view that there was absolutely no justification for the National Commission to reduce the rate of interest from 18% to 5% per annum and not to indicate the time period for which the interest was payable by the Board.

Accordingly, the appeal is allowed, impugned order passed by the National Commission on 4th July, 2005 in First Appeal No. 494 of 1995 and order dated 11th August, 2006, dismissing the application for modification are set aside and the appeal filed by the respondent-Board before the National Commission is dismissed. Consequently, the order passed by the State Commission is restored.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
February 09, 2009.