

CASE NO.:
Appeal (civil) 8400 of 2002

PETITIONER:
Ghaziabad Development Authority

RESPONDENT:
Naresh Kumar Sharma

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 was allotted a plot of land on 9th March, 1989 in the Govindpuram Plot Scheme. He deposited the entire amount, but no plot was allotted to him. He thus filed a complaint. It appears that during the pendency of the complaint before the District Forum possession was delivered to the Respondent on 29th September, 1995. The District Forum held that as possession has been given belatedly compensation should be paid to the Respondent by way of interest at the rate of 18% on the amounts deposited by him from 1st January, 1992 till the possession was given. The District Forum also directed payment of Rs. 1,000/- for mental agony. The State Forum dismissed the Appeal. The National Forum confirmed the payment of interest at the rate of 18% per annum. We are told that interest at the rate of 18% has been paid, but some amount has been deducted as TDS. We were shown Orders of the State Forum and the National Forum holding that on interest amounts no TDS can be deducted. It could not be shown to us that these Orders have been stayed by this Court and/or that there is any contrary Order of this Court. We are not going into the merits of such an Order but once there is such an Order the Appellants have to

comply with that Order. They therefore cannot deduct TDS. The Appellants have already paid interest at the rate of 18% per annum. On the basis of the ratio laid down by us in the case of Ghaziabad Development Authority vs. Balbir Singh (supra) the Appellants cannot claim any refund. The Appellants shall now pay, within 4 weeks from today, the amount deducted as TDS with interest at the rate of 18% per annum thereon till the date of payment. 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. This Appeal stands disposed off accordingly.

JUDIS