

CASE NO.:
Appeal (civil) 5869 of 2002

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
C.L. Taneja

DATE OF JUDGMENT: 24/09/2004

BENCH:
S.N. VARIAVA & A.K. MATHUR

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 bearing No. 1831, Sector-14(P), Urban Estate, Hisar on 21st August 1986. The Respondent paid substantial amounts but the possession was not delivered. The Respondent then filed a complaint. On these facts, the District Forum awarded interest @ 15% p.a. on the amount deposited from two years after the date of the amounts were deposited till payment.

The State Forum dismissed the Appeal and confirmed the Order of the District Forum. The Appellants went in Revision before the National Commission. The National Commission dismissed the Revision filed by the Appellants relying upon its own decision in the case of Haryana Urban Development Authority v. Darsh Kumar and observing that interest @ 18% p.a. has been allowed by them under similar circumstances. As has been stated in so many matters, the Order of

the National Commission cannot be sustained. It cannot dispose of the matters by confirming award of interest in all matters irrespective of the facts of that case. The National Commission may, if it is satisfied on facts of a case, award compensation/damage under a head as set out in Balbir Singh's case (supra). The Order of the National Commission is accordingly set aside.

In this case possession has been offered on 1st May 1998. Counsel has no instructions and cannot state whether possession is taken. The Respondent will be entitled to take possession, if not already taken. The Appellants shall deliver possession and not charge any further or other amounts except registration charges and stamp duties.

We are told that a sum of Rs.83,324/- has been paid to the Respondent on 27th September 1999 towards interest @ 12%. In our view, this payment is sufficient recompense to the Respondent and no further payment need be made to the Respondent. If, however, any amount has been deducted as TDS, then the Appellants shall within 15 days from date of this Order pay over to the Respondent the amount of TDS deducted with interest thereon @ 12% per annum from date of deduction till payment. We so direct as it is clear that these payments are towards compensation/damages for mental agony/harassment and increase in costs of construction. Thus, no TDS is deductible on these amounts. Appellants to file a compliance report in this Court within one month from today.

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.

With these directions, the Appeal stands disposed of with no order as to costs.