

CASE NO.:
Appeal (civil) 5623 of 2004

PETITIONER:
Haryana Urban Development Authority & Anr.

RESPONDENT:
Surinder Singh

DATE OF JUDGMENT: 31/08/2004

BENCH:
S. N. VARIAVA & ARIJIT PASAYAT

JUDGMENT:
J U D G M E N T
(Arising out of SLP) No.13897 of 2003)

S. N. VARIAVA, J.

Delay condoned.
Special 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 placed 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. DSB-60, Sector-Old Court, Hisar, on 30th June, 1988. As the possession was not delivered, the Respondent filed a complaint.

The District Forum directed payment of interest @ 18% from the date of deposit till the date of offer of possession. The State Commission, in the Appeal filed by the Appellants, reduced the rate of interest from 18% to 15% and further directed that interest would be payable after two years from the date of deposit. The National Commission disposed of the revision in terms of its Judgment in HUDA vs. Darsh Kumar.

For reasons set out 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 interest @ 15% has been paid on 11th May 1999

and possession has also been offered on 6th October 1997. As interest @ 15% has already been paid on the principles set out by us in our Judgment in Ghaziabad Development Authority vs. Balbir Singh (supra), the Appellants cannot claim refund. If the TDS has been deducted then the Appellants shall pay to the Respondent, within two weeks from today, the amount of TDS deducted with interest thereon at the rate of 12% from the date of deduction till payment. The Appellants to inform the Respondent that he can take possession whenever he wants. The Appellants not to claim any further or other amounts from the Respondent.

We clarify that this Order shall not be taken as a precedent in any other matter as it has been passed by 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 off with no order as to costs.