

CASE NO.:
Appeal (civil) 7029 of 2002

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Smt. Priti Chawla

DATE OF JUDGMENT: 10/08/2004

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 bearing No. 1833, Sector 17, Urban Estate, Gurgaon, on 6th June, 1987. It turned out that that plot was, in the plan, earmarked for a road. The Respondent paid all dues but was not offered possession of any alternate plot. On these facts, the District Forum directed to deliver an alternate plot at the same price and to pay interest @ 15% from the date of deposit till the date of the offer of possession of alternate plot.

The State Forum upheld the order of the District Forum and, in addition, directed the Appellants to pay a sum of Rs.2,00,000/- as compensation on account of escalation in the cost of construction, Rs.20,000/- as compensation for monetary loss and mental agony and Rs.2,000/- as costs. The Respondent did not go in Revision before the National Commission. The Appellants went in Revision before the National Commission. The National Commission has increased the rate of interest to 18% p.a.

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. In this case, the Appellant have paid interest @ 12% only on 5th June, 2003. They have delivered possession of an alternate plot bearing No. 826, Sector 17, Urban Estate, Gurgaon on 18th October, 2000. As the allotment was in 1987 and possession given only in 2000, the Respondent has suffered mental agony and harassment. Award of Rs.20,000/- as compensation for mental loss and mental agony and the award of Rs.2,000/- as costs are proper. Possession is now given at the old rate. The Respondent has got benefit of escalation in price of land. We agree that there should be an award for escalation in the costs of construction. However, it appears to us that the basis for such award should be as per CPWD rates. We thus set aside the award of Rs.2 lacs and direct District Forum to work out and award to Respondent escalation as per CPWD rate. Save as above Order of State Forum is confirmed. In this case, Respondent has got land at old rates. She has been awarded compensation for mental agony and harassment. She has been awarded costs of escalation in construction. Thus normally only a nominal rate of interest on money lying with Appellants should have been granted. However, as interest at 12% has already been paid, on the principle set out in Ghaziabad Development Authorities case (supra), Appellants shall not be entitled to claim refund. We, therefore, maintain award of interest at 12%. 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.

This Appeal is disposed of accordingly.