

CASE NO.:
Appeal (civil) 6272 of 2004

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Dheer Singh Bhatti

DATE OF JUDGMENT: 24/09/2004

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

JUDGMENT:
J U D G M E N T

[Arising out of SLP(C) No. 12586 of 2004]

S. N. VARIAVA, J.
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 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. 1212, Sector-9, Gurgaon on 9.7.1993. The Respondent paid substantial amounts but the possession was not delivered. The Respondent thus filed a complaint. On these facts, the District

Forum awarded interest as per HUDA policy and directed that the same would be payable after two years from the date of deposits till the date of possession. It further directed that the possession of the allotted plot to be delivered within one month after receipt of the copy of Order dated 20.9.2001 of the District Forum.

The State Forum while disposing of the Appeal directed to pay interest @ 18% p.a. on the entire deposited amount after two years

from the date of allotment till delivery of possession. The National Commission relying upon the case of Haryana Urban Development Authority v. Darsh Kumar dismissed the Revision. 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 grant of interest in all matters irrespective of the facts of that case. If facts of a case so justify the National Commission may award compensation/damages on principles set out in Balbir Singh's case (supra). The Order of the National Commission is accordingly set aside.

In this case possession was offered on 11th June 1997 and taken by the Respondent in 2002. The Respondent has paid a sum of Rs.2,93,429/-. The Appellants have pursuant to interim Orders of this Court paid to Respondent a sum of Rs.2,17,614/-. This, according to Appellants, is interest at the rate of 12% per annum. The Appellants have, however, deducted TDS. The Appellants were not entitled to deduct TDS. The Appellants shall thus pay over to the Respondent the amount of TDS deducted with interest thereon at the rate of 12% from date of deduction till payment. Save as above, the Appellants need not pay anything more to the Appellants as, in our view, Respondent has received sufficient recompense.

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 observations, the Appeal stands disposed of with no order as to costs.