

CASE NO.:
Appeal (civil) 5624 of 2004

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Lalit Jain

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 (C) No. 13087 of 2003]

S. N. VARIAVA, J.

Leave granted.
Delay condoned.

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. 1368, Sector 10, Ambala City on 30th August, 1991. He was, however, given the possession of the plot only on 27th September, 1996. He therefore filed a complaint before the District Forum claiming interest at the rate of 24% on the amount of Rs.1,95,681.75 from the date he paid the amount till possession was given. The District Forum held that 3 = years must be given to Appellants to give possession. It was held that by 1st March, 1995 the Appellants should have handed over possession to the Respondent and that beyond that period they should pay interest at the rate of 18%. The District Forum also directed payment of Rs.5,000/- as compensation for harassment and Rs.500/- as costs.

In the Appeal filed by the Appellants, the State Commission reduced the interest from 18% to 15% per annum and set aside the award of compensation of Rs.5,000/-.

The National Commission has disposed off the Revision filed by the Appellants relying upon its own decision in the case of Haryana Urban Development Authority vs. Darsh Kumar.

We are told that interest at the rate of 12% has been paid on 24th March, 2000. It is not clear whether, whilst paying interest, any TDS has been deducted. In our view, interest at the rate of 12% is sufficient in a case like this and, therefore, nothing further needs to be paid. However, if TDS has been deducted, then the Appellants must, within 2 weeks from today, forward to the Respondent the amount of TDS deducted along with interest at the rate of 12% per annum thereon from the date it was so deducted till payment. 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 the above directions, the Appeal stands disposed of. There will be no order as to costs.