

CASE NO.:
Appeal (civil) 7562 of 2002

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Dr. Jai Bhagwan & Anr.

DATE OF JUDGMENT: 27/09/2004

BENCH:
S. N. VARIAVA & B. P. SINGH

JUDGMENT:
J U D G M E N T

S. N. VARIAVA, J.

This Appeal is against a one paragraph Order dated 16th October, 2001 of the National Consumer Disputes Redressal Commission which reads as follows:

"In the case notice was issued to the Respondent limited to rate of interest only in view of our decision in H.U.D.A. vs. Darsh Kumar, Revision Petition No. 1197/98, the Revision Petition is dismissed."

On 16th October 1995, the Respondents were allotted a Nursing Home site in Sector 23/23A, Urban Estate, Gurgaon for consideration of Rs.2,145/- per square yard. On 22nd December, 2003 the Respondents were then offered an alternate site No. NH-1, Sector 46, Urban Estate, Gurgaon for consideration of Rs.3,606/- per square yard. This was accepted by the Respondents without prejudice to their rights. The Respondent then filed a complaint. On these facts, the District Forum directed that the alternate site was to be given at the same rate as the original site. The District Forum further ordered that the Appellants shall adjust the amount of Rs.1,82,625/-, deposited by the Respondents, towards future installments.

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.

As the Appellants did not comply with the Orders, an Execution Application was taken out. By Order dated 22nd May, 2000 the Appellants were directed to comply with the Orders and were also directed to pay interest at 15% per annum on amounts deposited by the Respondent.

Against the Order dated 22nd May, 2000, an Appeal was filed before the State Forum. The Appeal was dismissed on 3rd November, 2000.

Against the Order of 3rd November, 2000, a Revision was filed before the State Forum which has been dismissed by the impugned one paragraph Order.

A perusal of the Order of the National Commission reveals that the National Commission had not realized that the Revision was against Orders passed in Execution Proceedings. It does appear that the National Commission has mechanically and without application of mind passed the above mentioned one paragraph Order. Thus the Order of the National Commission would normally require to be set

aside. We however find that the Orders of the District Forum and State Forum in the Execution Application are correct and require no interference. The Appellants had lost, in the earlier round, up to the National Commission. That Order was not appealed against. Thus that Order has become final. The Order directing execution is in accordance with the earlier Orders.

Accordingly, we dismiss this Appeal with no order as to costs.

JUDIS