

CASE NO.:
Appeal (civil) 5625 of 2004

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Seema Handa

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. 10357 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 commercial plot bearing No. 1359, Sector 21-D, Faridabad. As possession was not given even though all amount had been deposited, the District Forum directed allotment of an alternate plot No. 216, Sector 31, Faridabad at the same rate at which the original plot was allotted. The District Forum also directed payment of Rs. 10,000/- as escalation in cost of construction and on account of mental agony and harassment. It also directed payment of interest on the amounts deposited at the rate of 18% per annum.

The State Commission maintained the order of the District Forum, except that it waived award of Rs.10,000/- and also reduced the rate of interest to 10%.

The National Commission dismissed the Revision filed by the Appellants on the ground that the State Commission had been very lenient.

In our view, the Order of the State Commission is just and proper and the National Commission was right in not interfering with it. We also see no reason to interfere.

It could not be stated whether interest as awarded has been paid or not and whether possession has been delivered. The Appellants are directed to deliver possession within a fortnight from today, if not already delivered. If the amount of interest has not been paid in spite of clarification given by this Court's Order (reported in (2004) 5 SCC 65), we feel that for this lapse the Appellants must pay interest at the rate of 15% from 17th March, 2004 till payment. Appellants shall also pay costs fixed at Rs.500/- to the Legal Aid Society of the Supreme Court. The Appellants must recover the costs of Rs.500/- personally from the officer/s, who was responsible for not paying even after clarification by this Court.

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.