

CASE NO.:
Appeal (civil) 3419 of 2003

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Krishna Goel

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. 2099, Sector 23, Sonapat, vide Memo dated 29th August, 1991. The Respondent paid all dues. But the possession was offered.

On these facts, the District Forum directed to deliver physical possession of plot in 6 months. The District Forum further directed to pay lump sum compensation of Rs. 88,750/- to the complainant. It also directed the Appellants to further pay interest compensation at the rate of 15% per annum on the amount of Rs.1,86,088/- w.e.f. 18th November, 1998 till the offer of possession. The District Forum also awarded Rs. 10,000/- towards compensation for mental agony and harassment and Rs. 1,000/- for costs of proceedings.

The State Forum, whilst maintaining the rest of the order of the District Forum, reduced the amount of compensation awarded for mental agony and harassment from Rs.10,000/- to Rs.2,000/-. 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. As stated above, the relevant papers regarding the claim made, the affidavits filed, the evidence submitted before the District Forum are not produced before this Court. In this case, the Appellant have on 24th April 2000 paid interest @ 12%. They have also offered possession on 29th September 1998 but Respondent has as yet not taken possession. In our view, the correct rate of interest would be 12% p.a. from the date of deposit till payment. We order accordingly. As the interest @ 12% had already been paid to the Respondent, we feel that no further orders are required in this case, save and except that the Appellant shall now pay a sum of Rs. 2,000/- towards mental agony and harassment and also pay the costs of Rs. 1,000/- within two weeks from today. The Respondent is entitled to liberty to take possession of the plot. If the Appellant do not give possession to the Respondent without claiming any further amount, the Respondent is at liberty to approach 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.

This Appeal is disposed of accordingly.