

CASE NO.:
Appeal (civil) 2378 of 2003

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
R.S. Banga

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. 477-P, Mela Ground Area, Hisar vide letter no. 8688 dated 24th June, 1992. The Respondent paid all dues. But the possession was not offered.

On these facts, the District Forum directed to refund the amount deposited along with interest @ 18% p.a. from the date of deposit till realization.

The State Forum reduced the rate of interest from 18% to 15% and directed to pay the same after two years from the date of deposit. 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 Appellants have already paid interest @ 15% p.a. In this case, considering the fact that possession has still not been taken by the Respondent and interest @ 15% has already been paid, the same cannot be recovered as set out in our above-mentioned Order. Thus, we maintain the rate of interest directed by the State Forum. The Respondent is at liberty to take possession of the plot. If Respondent asks for possession Appellants shall deliver possession forthwith. If the Appellants do not give possession the Respondent is at liberty to approach this Court. In event Respondent does not want to take possession he shall intimate, within 2 months from the date of the Order, that he does not want possession and that he would want refund of his amounts. In that event Appellants shall refund the amounts deposited by the Respondent to him without any deductions whatsoever.

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. There will be no order as to costs.