

CASE NO.:
Appeal (civil) 30 of 2004

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Raj Kumar Rathi

DATE OF JUDGMENT: 31/08/2004

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 placed 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.50, Sector-21, Gurgaon, on 19th May, 1986. All payments were made, but the possession was not given as the plot was under litigation and development work could not take place. On 20th May 1997, the Respondent was offered an alternate plot No.20 in Sector-5, Gurgaon, but at an enhanced price. The Respondent agrees to take the alternate plot and files a complaint challenging the enhancement of price.

The District Forum directs payment of interest @ 10% after two years from the date of deposit till possession is given and directs that the alternate plot must be delivered at the original price. The District Forum also directs that if there has been enhancement in the price of the original plot then such enhancement could be collected but no interest could be charged on this enhanced amount. The State Commission dismissed the Appeal filed by the Appellants. The National Commission dismissed the revision on the ground of delay of 63 days.

In this case, the possession has already been taken by the

Respondent. Interest @ 10% has also been paid on 31st July 2003. Thus, even though we do not approve of the National Commission dismissing the revision for a mere delay of 63 days, in our view, no useful purpose would be served in remitting the matter back. In our view, the Order of the District Forum is just and has to be maintained.

We clarify that this Order shall not be taken as a precedent in any other matter as it has been passed by 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.

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

JUDIS