

CASE NO.:
Appeal (civil) 5871 of 2002

PETITIONER:
Haryana Urban Development Authority

RESPONDENT:
Raj Rani

DATE OF JUDGMENT: 24/09/2004

BENCH:
S.N. VARIAVA & A.K. MATHUR

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. 186, P.L.A. Sector, Hisar on 16.11.1990. The Respondents paid substantial amounts but the possession was not delivered as the plot was encroached upon by the Police. The Respondent thus filed a complaint. On these facts, the District Forum awarded interest @ 18% p.a. on the entire deposited amount after two years of date of deposit till offer of possession.

The State Forum directed that interest at the rate of 15% from date of re-allotment shall be paid. The Appellants went in Revision before the National Commission. The National Commission dismissed the Revision.

As has been stated in so many matters, the Order of the National Commission cannot be sustained. It cannot dispose of the matters by awarding interest @ 18% in all matters irrespective of the facts of that case. Accordingly the Order of the National Commission is hereby set aside.

In this case possession has been delivered to Respondent in 2002. A sum of Rs.2,17,614/- being interest at 12% per annum has also been paid on 21st December, 1999. However, in making this payment TDS has been deducted. We direct that the amount deducted as TDS be paid to the Respondent within 15 days from date of this Court along with interest thereon at 12% per annum from date the amount was deducted till payment. Save as above, there will be no further or other Order in this Appeal.

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 these observations, the Appeal stands disposed of with no order as to costs.