

CASE NO.:
Appeal (civil) 5620 of 2004

PETITIONER:
Haryana Urban Development Authority & Anr.

RESPONDENT:
Satish Kumar

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. 20161 of 2003]

S. N. VARIAVA, J.

Leave granted.

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. 447 in Sector 12, Gurgaon in the year 1986. Even though all amounts had been deposited, the possession was not given to him. On 21st May 1996 he was offered an alternate plot in Sector 5, Gurgaon. But an enhanced price was demanded from him. The Respondent thus filed a complaint.

The District Forum by its Order dated 12th December 1997 directed the Appellants to deliver the alternate plot at the same price at which the original plot was allotted to him. The District Forum directed the payment of interest @ 15% p.a. The State Forum in the Appeal filed by the Appellants maintained the Order of the District Forum, save and except it directed that the interest would be payable after two years of the date of deposit. The National Commission dismissed the revision on the ground of delay of 1727 days.

We are told that interest @ 15% has been paid on 3rd May 2000. We are informed that possession has already been delivered of the alternate plot on 30th December 2002. In our view, the Order of the State Forum was just and equitable and requires no interference. Further, we also see no reason why the inordinate delay of 1727 days in filing the revision before the National Commission should be condoned. We, therefore, dismiss the Appeal with no order as to costs.

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.

JUDIS