

Bangalore Development Authority

Vs

V. Balachandra and Others

Special Leave Petition (Civil) Nos. 13219-41 of 1990

(CJI Ranganath Misra, A.M. Ahmadi, K. Ramaswamy JJ)

16.11.1990

ORDER

1. We are told that apart from these cases there are several similar petitions pending in this Court where the Bangalore Development Authority (for short 'BDA') has challenged the orders of the High Court allowing the respondents, who are allottees of accommodation constructed by the B.D.A., the benefit of paying their dues for the allotted accommodation in installments by providing interest at a very small rate on the outstanding amount permitted to be cleared in two installments. It is pointed out that no interest has been ordered to be paid for the past period for which there has already been default in payment of the installments.

2. We have been told that similar orders have been passed in about 150 matters. We do not think it would be appropriate to require the allottees, on notice, to appear before us which ordinarily we would have done. On the other hand we think it sufficient to indicate the principle which should be applied to cases of this type and leave it to the B.D.A. to go back to the High Court by way of review in such matters where they think review should be asked for and the High Court would do well to afford opportunity to both sides to be heard and keeping the principle indicated now in view dispose of the same.

3. The B.D.A. obtains financial assistance for undertaking construction of accommodation from different financial institutions on payment of interest. The accommodation which is the subject-matter of allotment is meant for the high income group of the society. Since, the B.D.A. raises its funds from financial institutions on terms of interest, it is necessary that the B.D.A. should not be made to bear the burden of interest in respect of the defaulted installments as also the installments granted by the High Court. The burden of interest should be wholly borne by the allottees unless in a given case for good reasons the High Court is of a different view. The B.D.A. should be given an opportunity of indicating to the High Court the rate at which it is required to pay interest on the amount which it receives by way of loan and the B.D.A. should be paid interest at least at the same rate so that for an advantage or benefit to be extended to the respondents it does not suffer in any manner the liability for a higher rate of interest.

4. We direct that this group of cases as also the other group directed to be listed on 26th November, 1990, should be taken to have been disposed of by this order.

Order accordingly.

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