

H.U.D.A

v.

Surinder Kumar Goel

S.N. VARIAVA VS. ARIJIT PASAYAT

(Supreme Court Of India)

Civil Appeal No. 5622 Of 2004 | 31-08-2004

S.N. Variava, J.

1. Delay condoned.

2. Special leave granted.

3. 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 CCC 27 (NS) : (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.

4. 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.

5. In this case, the Respondent was allotted a plot bearing No. 2724 in Sector 23/23A (II), Gurgaon, on 11th August, 1986. Even though, all the amounts had been paid the possession was not delivered to the Respondent. The Respondent, therefore, filed the complaint before the District Forum.

6. The District Forum by its Order dated 22nd March, 1999 awarded interest @ 18% p.a. The State Commission in its Order dated 28th October 1999 confirmed the Order of the District Forum. The National Commission disposed of the revision in terms of its Judgment in HUDA vs. Darsh Kumar 1986-2002 CONSUMER 5722 (NS) : 2001 CCC 455 (NS).

7. 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. It is accordingly set aside.

8. We are told that possession has already been offered on 17th March, 1997 and interests @ 12% has been paid. In our view, as the possession is being delivered to the Respondent, interest @ 12% is sufficient.

9. We, therefore, direct that the Respondent will be entitled to take possession. The Appellants to inform the Respondent that he can take possession. The Appellants not to claim further or any amount from the Respondent, except registration charges. If TDS has been deducted, the Appellants to pay to the Respondent within two weeks the amount of TDS deducted with interest thereon @ 12% from the date TDS was deducted till payment.

10. 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.

11. With these directions, the Appeal stands disposed off with no order as to costs.