

SUPREME COURT OF INDIA

Haryana Urban Development Authority

Vs.

Satish Hans

C.A.No.....of 2009

(Dr. Arijit Pasayat and Asok Kumar Ganguly JJ.)

29.04.2009

JUDGMENT

Dr.Arijit Pasayat, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by the National Consumer Disputes Redressal Commission (in short 'National Commission'). By the impugned order the Commission dismissed the petition. Challenge in the revision petition before the National Commission was to the order passed by the District Consumer Disputes Redressal Forum, Panchkula (in short 'District Forum') as confirmed by the order passed by the State Disputes Redressal Commission, Haryana, (in short the 'State Commission'). The complaint was filed under Section 12 of the *Consumer Protection Act, 1986* (in short the 'Act'). The grievance was that the complainant purchased a shop in an auction in 1993 and had deposited a sum of Rs.82, 000/-. He had further deposited a sum of Rs.2, 07,000/-. Since further payment was not forthcoming there was no area development and the appellant authority resumed the plot. Against this, appeal was filed before the Administrator of the appellant authority who allowed the appeal and fixed schedule of payments. An undertaking was filed before the appellate authority by way of an undertaking that he was ready to pay the balance amount as per HUDA policy. The complaint was filed by the complainant for rectifying statement of accounts by working out the amount payable by charging 10% p.a. rate of interest against the compound rate of interest as demanded by the appellant authority. The District Forum directed the appellant to re-calculate the entire amount with simple interest @15% p.a. as mentioned in the allotment letter and not with compound interest. The appellant filed appeal before the State Commission which was dismissed. The National Commission did not find any substance in the revision petition and held that the National Commission has taken the view that simple interest was to be charged and not otherwise. Therefore, the revision petition was dismissed.

3. In support of the appeal learned counsel for the appellant authority submitted that the National Commission itself has taken view that where an allottee moves the appellant

authority, or avails remedy available he cannot thereafter move the forum and/or State or National Commission under the Act. Reliance is placed on an order passed by the *National Commission in Surinder Mohan v. Municipal Corporation and Anr.*¹.

4. It is the stand of the appellant that the National Commission has not considered this aspect even though specific plea was raised.

5. There is no appearance on behalf of the respondent.

6. In the circumstances it would be appropriate for the National Commission to re-consider the matter in the light of what has been decided in the case of Surinder Mohan (supra).

7. The matter is remitted to the National Commission. The appeal is allowed to the aforesaid extent. No costs.

¹[III (2006) CPJ 136(IC)]