



CNR:KAHC010091792026

NC: 2026:KHC:49326
WP No. 4306 of 2026
C/W WP No. 7083 of 2026
WP No. 7093 of 2026
AND 6 OTHERS

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 4306 OF 2026 (GM-CPC)

C/W

WRIT PETITION NO. 7083 OF 2026 (GM-CPC)

WRIT PETITION NO. 7093 OF 2026 (GM-CPC)

WRIT PETITION NO. 7097 OF 2026 (GM-CPC)

WRIT PETITION NO. 7098 OF 2026 (GM-CPC)

WRIT PETITION NO. 7102 OF 2026 (GM-CPC)

WRIT PETITION NO. 7127 OF 2026 (GM-CPC)

WRIT PETITION NO. 7130 OF 2026 (GM-CPC)

WRIT PETITION NO. 7160 OF 2026 (GM-CPC)

R

IN WP No. 4306/2026

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY.

...PETITIONER

(BY SRI. K.B.S.MANIAN., ADVOCATE)

AND:

1. J.GIRIDHAR
AGED ABOUT 59 YEARS,
S/O.LATE DR. C.J.REDDY,
NO.24, BYRASANDRA MAIN ROAD,
1ST BLOCK EAST, JAYANAGAR,
BENGALURU-560 001.

...RESPONDENT

(BY SRI. B.S.MANJUNATH, ADVOCATE FOR C/R)

Digitally signed by
SUMATHY
KANNAN
Location: HIGH
COURT OF
KARNATAKA



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WP No. 4306 of 2026
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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER ON I.A NO.1/2025 DATED 19.01.2026 PASSED IN O.S.NO. 3924/2017 ON THE FILE OF THE XXXVII ADDL. CITY CIVIL AND SESSIONS JUDGE(CCH-38) BANGALORE PRODUCED AT ANNEXURE-A.

IN WP NO. 7083/2026

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY.
...PETITIONER
(BY SRI. K.B.S.MANIAN, ADVOCATE)

AND:

1. MURALIDHAR HEGDE
AGED ABOUT 68 YEARS,
S/O, LATE B.V.RAGHURAMA HEGDE,
NO. 539, 5TH CROSS,
MAHALAXMI LAYOUT,
BENGALURU-560 086.
...RESPONDENT
(BY SRI. B.S.MANJUNATH., ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER ON I.A NO.1/2025 DATED 19.01.2026 PASSED IN O.S NO. 4033/2017 ON THE FILE OF THE XXXVII ADDL.CITY CIVIL AND SESSIONS JUDGE(CCH-38), BANGALORE PRODUCED AT ANNEXURE- A.

IN WP NO. 7093/2026

BETWEEN:



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1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY.

...PETITIONER

(BY SRI. K.B.S.MANIAN., ADVOCATE)

AND:

1. GHANI HANEEF
AGED ABOU 60 YEARS,
NO.26/A, 'A' MILLERS ROAD CROSS,
BENSON TOWN, BANGALORE-560 046.

...RESPONDENT

(BY SRI. B.S.MANJUNATH., ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASHING THE
IMPUGNED ORDER ON I.A NO.1/2025 DATED 19.01.2026
PASSED IN O.S NO. 1191/2019 ON THE FILE OF THE XXXVII
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BANGALORE PRODUCED AT ANNEXURE-A.

IN WP NO. 7097/2026

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY.

...PETITIONER

(BY SRI. K.B.S.MANIAN, ADVOCATE)



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AND:

1. P.A. SURESH
AGED ABOUT 66 YEARS,
S/O, LATE P N ANANTHESHWARA NAIDU,
NO. 80/A, 1ST BLOCK EAST,
BYRASANDRA MAIN ROAD,
JAYANAGAR, BENGALURU 560 011.

...RESPONDENT

(BY SRI. B.S.MANJUNATH, ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO-QUASH THE IMPUGNED ORDER IN IA NO.1/2025 DATED 19.01.2026 PASSED IN O.S NO. 4030/2017 ON THE FILE OF THE XXXVII ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-38), BANGALORE PRODUCED AT ANNEXURE-A.

IN WP NO. 7098/2026

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY.

...PETITIONER

(BY SRI. K.B.S.MANIAN, ADVOCATE)

AND:

1. SHIVAKUMAR.M
AGED ABOUT 60 YEARS,
S/O MARIYAPPA,
RESIDING AT NO. 36TH MAIN,
1ST STAGE, ASHTAGRAMA LAYOUT,
NEAR KAMAKSHIPALYA



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TRAFFIC POLICE STATION,
BANGALORE-560 079.

...RESPONDENT

(BY SRI. B.S.MANJUNATH, ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASHING THE IMPUGNED ORDER ON I.A NO.1/2025 DATED 19.01.2026 PASSED IN O.S NO. 2972/2018 ON THE FILE OF THE XXXVII ADDL.CITY CIVIL AND SESSIONS JUDGE(CCH-38), BANGALORE PRODUCED AT ANNEXURE-A.

IN WP NO. 7102/2026

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY.

...PETITIONER

(BY SRI. K.B.S.MANIAN., ADVOCATE)

AND:

1. B.S.MUKUNDA
AGED ABOUT 62 YEARS,
S/O, B.M.SHANTHAPPA GOWDA,
NO.62, 7TH MAIN, SHARADA COLONY,
BASAVESHWANAGAR,
BENGALURU-560 079.

...RESPONDENT

(BY SRI. B.S.MANJUNATH, ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER IN IA NO.1/2025 DATED 19.01.2026



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PASSED IN O.S NO.2521/2018 ON THE FILE OF THE XXXVII
ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-38),
BANGALORE PRODUCED AT ANNEXURE-A.

IN WP NO. 7127/2026:

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY.

...PETITIONER

(BY SRI. K.B.S.MANIAN, ADVOCATE)

AND:

1. L.POTHEGOWDA
AGED ABOUT 68 YEARS,
S/O LINGAIAH,
RESIDING AT NO. 790, 9TH A MAIN,
INDIRANAGAR, 1ST STAGE,
BENGALURU-560 038.

...RESPONDENT

(BY SRI. B.S.MANJUNATH, ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION
OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER IN
I.A.NO.1/2025 DATED 19.01.2026 PASSED IN O.S
NO.2214/2019 ON THE FILE OF THE XXXVII ADDL. CITY CIVIL
AND SESSIONS JUDGE (CCH-38), BANGALORE PRODUCED AT
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IN WP NO. 7130/2026

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE



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HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY

...PETITIONER

(BY SRI. K.B.S.MANIAN., ADVOCATE)

AND:

1. ASHOK TALREJA
AGED ABOUT 72 YEARS,
RESIDING AT NO. 32 AND 33,
1ST CROSS, VENKATESHWAR LAYOUT,
NEAR RAMAIAH HOSPITAL,
MSRIT POST, BENGALURU.

...RESPONDENT

(BY SRI. B.S.MANJUNATH, ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER IN IA NO. 1/2025 DATED 19.01.2026 PASSED IN O.S NO. 2971/2018 ON THE FILE OF THE XXXVII ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-38), BANGALORE PRODUCED AT ANNEXURE-A.

IN WP NO. 7160/2026

BETWEEN:

1. BOWRING INSTITUTE
A SOCIETY REGISTERED UNDER THE
KARNATAKA SOCIETIES REGISTRATION ACT 1960;
HAVING ITS ADDRESS AT:
NO.19, ST.MARKS ROAD,
BANGALORE-560 001.
REPRESENTED BY ITS HON. SECRETARY

...PETITIONER

(BY SRI. K.B.S.MANIAN, ADVOCATE)



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C/W WP No. 7083 of 2026
WP No. 7093 of 2026
AND 6 OTHERS

AND:

1. B T RAMESH
AGED ABOUT 73 YEARS,
S/O, LATE B.M.THAMMAIAH,
RESIDING AT NO. 702, 9TH MAIN ROAD,
3RD BLOCK, 3RD STAGE,
BASAVESHWARNAGAR,
BENGALURU-560 079

...RESPONDENT

(BY SRI. B.S. MANJUNATH., ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER ON I.A NO.1/2025 DATED 19.01.2026 PASSED IN O.S NO. 4362/2017 ON THE FILE OF THE XXXVII ADDL.CITY CIVIL AND SESSIONS JUDGE(CCH-38), BANGALORE PRODUCED AT ANNEXURE- A.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.08.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, **HON'BLE MS. JUSTICE TARA VITASTA GANJU** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV ORDER

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I. Preface:

1. These petitions have been filed seeking to challenge nine (9) orders, all dated 19.01.2026, passed in I.A.No.1/2025 filed separately in O.S.No.3924 of 2017; O.S.No.4033 of 2017; O.S.No.1191 of 2019; O.S.No.4030 of 2017; O.S. No.2972 of 2018; O.S.No.2521 of 2018; O.S.No.2214 of 2019; O.S.No.2971 of 2018 and O.S.No.4362 of 2017 respectively, all passed by the XXXVII Addl. City Civil and Sessions Judge (CCH-38), Bangalore (hereinafter referred to as the "Impugned Orders"). By the Impugned Orders, the learned Trial Court has permitted the plaintiffs to reopen the case for an adjudication on merits.

2. Although separate orders have been passed in each matter, the orders are *pari materia* to each other, and hence these matters were taken up for hearing together.

3. For the sake of convenience, the petitioner shall be referred to as the defendant/Club and respondents shall be referred to as the plaintiffs in this judgment.



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4. This Court, by an order dated 08.07.2026, after hearing the parties briefly, had formulated the issue for determination in these petitions in the following terms:

“Whether the Civil Court can re-examine an issue based on an application filed by a party, after the suit has been disposed of as settled in Lok Adalat pursuant to an application filed under Order 23, Rule 1 of the CPC for withdrawal of the suit?”

4.1 Since the Trial Court Record was not available, it was requisitioned by this Court.

II. Brief Facts:

5. The brief relevant facts for this judgment are that suits were filed by the plaintiffs against the defendant/ Club seeking to challenge the functioning of the defendant /Club more specifically, in terms of an Enquiry Committee Report dated 08.04.2013 placed before a Special General Body Meeting dated 21.04.2013. A declaration was also sought in relation to an enquiry committee report.

5.1 The prayers sought for by the plaintiffs in O.S.No.3924 of 2017 (W.P.No.4306 of 2026); O.S.No.4033 of 2017 (W.P.No.7083 of 2026); O.S.No.4362 of 2017 (W.P.



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No.7160 of 2026); O.S.No.4030 of 2017 (W.P.No.7097 of 2026) are set out below:

PRAYER

"WHEREFORE, the plaintiff pray that this Hon'ble Court may be pleased to pass a judgment and decree against the defendant institute;

(a) for a declaration that the constitution of the enquiry committee as per the managing committee resolution dated:6/11/2012 and the report dated:8/4/2013 submitted by the said enquiry committee is illegal, ab-initio void being contrary to the rules regulating the constitution and management of the affairs of the defendant institute,

(b) for a declaration that the enquiry proceedings conducted by the enquiry committee is in violation of principles of natural justice and hence non-est in law and opposed to the rules of the defendant institute,

(c) to declare that the resolution accepting the report of the enquiry committee dated: 8/4/2013 passed in the special general body meeting dated:21/4/2013 is illegal and the same is passed with malafide intentions and is bad in law,

(d) for a declaration to declare that the communications sent to the plaintiff calling upon to pay Rs.9 lakhs additionally is illegal without jurisdiction,

(e) for permanent injunction restraining the institute from restraining the plaintiff from utilizing the facilities and exercising right/ privileges of the defendant institute as permanent member in terms of the prevailing rules of the institute,

(f) award cost of the suit and

(g) grant such other reliefs as this Hon'ble Court may deem fit in the facts and circumstances of the case."



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5.2 An additional declaratory prayer was sought in O.S. No.1191/2019 (W.P.No.7093/2026); O.S. No. 2972/2018 (W.P. No.7098/2026); O.S. No. 2521/2018 (W.P. No. 7102/2026); O.S. No.2214/2019 (W.P. No. 7127/2026) and O.S. No.2971/2018 (W.P. No. 7130/2026), which sought to declare the resolution directing the payment of Rs.9 lakhs by the plaintiffs as illegal. The prayers sought by the plaintiffs in these suits are set out below:

"PRAYER

WHEREFORE, the plaintiff pray that this Hon'ble Court may be pleased to pass a judgment and decree against the defendant institute;

(a) for a declaration that the constitution of the enquiry committee as per the managing committee resolution dated:6/11/2012 and the report dated:8/4/2013 submitted by the said enquiry committee is illegal, ab-initio void being contrary to the rules regulating the constitution and management of the affairs of the defendant institute,

(b) for a declaration that the enquiry proceedings conducted by the enquiry committee is in violation of principles of natural justice and hence non est in law and opposed to the rules of the defendant institute,

(c) to declare that the resolution accepting the report of the enquiry committee dated: 8/4/2013 passed in the special general body meeting dated: 21/4/2013 which was reconsidered in special general body meeting held on 21/04/2017 is illegal and the same is passed with malafide intentions and is bad in law,

(d) for a declaration to declare that the communications sent to the plaintiff calling upon to pay ₹.9 lakhs additionally and reconsidering the same in special general body meeting held on 21/04/2017 as illegal without jurisdiction,



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(e) for a declaration to declare that the resolution directing the plaintiff to pay a sum of Rs. 9 lakhs as per the resolution passed in special general body meeting dated: 21/04/2017 as illegal and without jurisdiction,

(f) for permanent injunction restraining the institute from restraining the plaintiff from utilizing the facilities and exercising right/ privileges of the defendant institute as permanent member in terms of the prevailing rules of the institute,

(g) award cost of the suit and

(h) grant such other reliefs as this Hon'ble Court may deem fit in the facts and circumstances of the case."

5.3 During the pendency of these proceedings, by an order dated 04.12.2023, the learned Trial Court referred the matter to the Lok Adalat to be held on 09.12.2023. It is the undisputed case of the parties that the plaintiffs and their counsel were present, as well as the Secretary of the defendant/Club and that the signature of a representative of the plaintiffs appears on the order sheet, evincing his presence on 09.12.2023 before the Lok Adalat.

5.4 Pursuant to negotiations between the parties on 09.12.2023, it was stated that the plaintiffs are ready to withdraw the suits. An application under Order 23, Rule 1 of the Code of Civil Procedure, 1908 ("hereinafter referred to as the "CPC") was thereafter filed in all the matters by



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the plaintiffs. It was stated therein that as a result of the deliberation held before the Lok Adalat, the plaintiffs have filed an application for resolution of the issues in respect of the plaintiffs' membership to the defendant/Club. The application also stated that in pursuance of mediation before the Lok Adalat, the plaintiffs have resolved to withdraw the suit.

5.5 Based on the applications filed, by an order dated 09.12.2023, the Lok Adalat, while permitting the plaintiffs to withdraw the suit, granted liberty to reopen and continue the suits or file fresh suits on the same cause of action.

6. Subsequently, an application under Section 151 of the CPC was filed by the plaintiffs before the learned Trial Court being I.A. No.1 of 2025, seeking to reopen and continue the case in the interest of justice and equity and as had been decided by the parties, in terms of the order dated 09.12.2023. It was stated therein that although the defendant/Club had agreed to resolve the matter in the meeting of the General Body of the Club, no resolution was



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reached. Thus, the plaintiffs had no efficacious remedy but to reopen and continue the suit.

7. Objections were filed to the said application by the defendant/Club stating that cause of action so far as the demand of Rs.9,00,000/- which was the subject matter of the suit, no longer survives on account of the compromise/withdrawal of the suit. It was further contended that the plaintiffs were granted the liberty to approach the Court only if the meeting of the General Body was not held by the defendant/Club and since the meeting of the General Body was held on 21.04.2017, no cause to file the present application survived.

8. The learned Trial Court however, by the Impugned Order found that the contention of the defendant/Club that after the passing of the order by the Lok Adalat, the Court has become *functus officio* and *non est* for adjudication is not correct since on a perusal of the compromise petition, the Secretary of the defendant/Club did not sign the compromise or the order sheet expressing his consent. The



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compromise petition was filed only by the plaintiffs withdrawing the suit with liberty to reopen. Thus, it was held that since there was no final settlement between the plaintiffs and defendant/Club before the Lok Adalat Court in terms of Section 20(3) and (5) of the Legal Services Authorities Act, 1987 (hereinafter referred to as the 'LSA Act') and the defendant/Club has not given its consent to the compromise petition and, the litigation has not attained finality, the plaintiffs can be permitted to reopen the case. The learned Trial Court also noted that the suit is pending for more than eight years and since the compromise and settlement has not gone through, it would be in the interest of justice to permit the plaintiffs to adjudicate the matter on merits.

III. Contentions of the Petitioner - Defendant/Club:

9. Learned counsel for the defendant/Club relying on the doctrine of *functus officio*, contended that once the Court has disposed of the matter, the doctrine of *functus officio* is applicable to give respect to the principle of finality. Once a judicial authority has rendered a decision, it is not open to



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them to revisit the decision or to clarify or to reverse it. Reliance was placed on the judgment of the Supreme Court in ***Hari Singh Mann Vs. Harbhajan Singh Bajwa***.¹

9.1. In addition, reliance was placed on the provisions of Order 23 Rule 3 of the CPC to contend that where it is true to the satisfaction of the Court, the suit has been adjudicated wholly or in part by a compromise, no suit shall lie to set aside the decree on the ground that compromise was not lawful. Reliance was placed on the judgment of the Supreme Court in ***Orissa Administrative Tribunal Bar Association Vs. Union of India and Ors.***²

9.2. Lastly, it was contended that the award of the Lok Adalat is a decree and can only be questioned on limited grounds as per the law laid down in the judgment of the Supreme Court in ***Dilip Mehta Vs. Rakesh Gupta and Ors***³, wherein it has been held that where a Lok Adalat award is based on a settlement between the parties, the

¹ (2001) 1 SCC 169

² (2023) 18 SCC 1

³ 2025 SCC Online SC 2737



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award attains statutory finality and its validity cannot be reopened through an ordinary civil suit or other remedy. The only remedy available is to invoke the jurisdiction of the High Court under Articles 226 or 227 of the Constitution of India, 1950 (hereinafter referred to as the 'Constitution').

IV. Contentions of the Respondents/Plaintiffs :

10. Learned counsel for the respondents/plaintiffs, on the other hand has contended that the plaintiffs had filed an application to reopen the suit and since no actual compromise happened between the parties and since the order of the Lok Adalat dated 09.12.2023 was not challenged by either party, the matter had not attained finality.

10.1 It was further contended that the order of the Lok Adalat clearly stated that if there was no settlement or compromise, the Court could exercise discretion and permit reopening of the case and thus, the doctrine of *functus officio* is not applicable. Reliance was placed by the learned counsel for the respondents/plaintiffs on the judgment of



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the Supreme Court in ***Jet Plywood and another Vs. Madhukar Nowlakha and Others***⁴ to submit that the Court is not powerless to set aside the orders of dismissal in its inherent powers under Section 151 of the CPC, especially where upon a mistake or misrepresentation, the case has been withdrawn.

10.2 It was further contended by the respondents /plaintiffs that where the Code of Civil Procedure is silent with regard to a particular procedural aspect, the inherent powers of the Court under Section 151 CPC may be invoked to secure the ends of justice and prevent injustice. Reliance was placed on the judgment of the Supreme Court in ***Manohar Lal Chopra vs. Seth Hiralal***⁵, wherein the Supreme Court observed that the provisions of the Code are not exhaustive, as the legislature cannot contemplate all possible circumstances which may arise in future litigation and provide for the procedure in every such situation.

⁴ (2006) 3 SCC 699

⁵ 1961 SCC OnLine SC 17



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10.3 Lastly, reliance was placed on a judgment of the Division Bench of the Calcutta High Court in ***Rameswar Sarkar Vs. State of West Bengal***⁶, to contend that where a suit is withdrawn by mistake, the Court is not powerless to set aside the order permitting such withdrawal. Emphasis was placed on the Court's discretionary power to recall such an order in exercise of its inherent jurisdiction under Section 151 CPC.

V. Analysis And Findings:

11. As stated above, the point for determination before this Court is, whether the Civil Court can entertain an application for recall filed by a party, after the suit has been disposed of as settled in Lok Adalat, pursuant to an application filed under Order 23, Rule 1 of the CPC for withdrawal of the suit.

12. The principal contention that has been raised by the defendant/Club, as petitioner herein, is that once the suit of the plaintiffs was settled in the Lok Adalat and withdrawn,

⁶ 1985 SCC OnLine Cal 139



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the *lis* come to an end. Thereafter the Court was "*functus officio*" to recall such order and to continue the suit. The only remedy that the plaintiffs had once a matter had been settled, was to approach the Writ Court to have the settlement set aside as has been held by the Supreme Court in terms of the ***Dilip Mehta*** case.

13. A similar contention was raised by the defendant /Club before the learned Trial Court as well. As discussed above, the learned Trial Court had found that in fact there was no settlement or compromise as is envisaged under the provisions of Sections 20(3) and (5) of the LSA Act, since the defendant/Club had not executed any award as is envisaged under the LSA Act.

14. The Supreme Court in the ***State of Punjab and Another Vs. Jalour Singh and Ors.***⁷ while explaining the functioning of a Lok Adalat, has held that the Lok Adalat's have no adjudicatory or judicial functions, and that their functions relate purely to conciliation. It was explained that

⁷ (2008) 2 SCC 660



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if any case is referred to the Lok Adalat under sub-section (1) of Section 20 of the LSA Act, the Lok Adalat shall have the jurisdiction to determine and arrive at a compromise or settlement between the parties to the dispute. Further, it was held that the Lok Adalat's are guided by principles of justice, equity and fair play and the LSA Act adverts to a non-adjudicatory determination based on a compromise or settlement arrived at between the parties, with the assistance of the Lok Adalat. The Court further held that the making of an Award is an 'administrative act' of incorporating terms of settlement of compromise, agreed to by the parties, in the presence of the Lok Adalat and in the form of an Executable Order under the signature and seal of the Lok Adalat. The relevant extract of **Jalour Singh** case is set out below:

*"7. A reference to relevant provisions will be of some assistance, before examination of the issues involved. Section 19 of the Legal Services Authorities Act, 1987 ("the LSA Act", for short) provides for organisation of the Lok Adalats. **Section 19(5)(i) of the LSA Act provides that a Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement** between the parties to a dispute in respect of any case pending before any court for which the Lok Adalat is organised. **Section 20 relates to cognizance of cases by the Lok Adalats. Sub-section (1) refers***



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to the Lok Adalats taking cognizance of cases referred to by courts and sub-section (2) refers to the Lok Adalats taking cognizance of matters at pre-litigation stage. The relevant portions of other sub-sections of Section 20, relating to cases referred by courts, are extracted below:

"20. (3) Where any case is referred to a Lok Adalat under sub-section (1) ... the Lok Adalat shall proceed to dispose of the case ... **and arrive at a compromise or settlement between the parties.**

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground **that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received** under sub-section (1) for disposal in accordance with law.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1)."

(emphasis supplied)

8. It is evident from the said provisions that **the Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance, and puts its seal of confirmation by making an award in terms of the compromise or settlement.** When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the court from which the reference was received, for disposal in accordance with



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*law. No Lok Adalat has the power to "hear" parties to adjudicate cases as a court does. It discusses the subject-matter with the parties and persuades them to arrive at a just settlement. In their conciliatory role, the Lok Adalats are guided by the principles of justice, equity and fair play. **When the LSA Act refers to "determination" by the Lok Adalat and "award" by the Lok Adalat, the said Act does not contemplate nor require an adjudicatory judicial determination, but a non-adjudicatory determination based on a compromise or settlement, arrived at by the parties, with guidance and assistance from the Lok Adalat.** The "award" of the Lok Adalat does not mean any independent verdict or opinion arrived at by any decision-making process. **The making of the award is merely an administrative act of incorporating the terms of settlement or compromise agreed by parties in the presence of the Lok Adalat, in the form of an executable order under the signature and seal of the Lok Adalat.**"*

[Emphasis Supplied]

14.1 The Supreme Court in ***Jalour Singh*** case further clarified that where an award is made in terms of a settlement duly arrived at between and signed by the parties, it becomes final and binding and is executable as a decree; such an award may be challenged only under Articles 226/227 of the Constitution, and on limited grounds. However, where no compromise or settlement is signed by the parties and the order does not refer to any settlement, the order is not a Lok Adalat award, and the question of challenging it under Article 227 of the



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Constitution as an award, does not arise. The relevant extract of ***Jalour Singh*** case is set out below:

*"12. It is true that where an award is made by the Lok Adalat in terms of a settlement arrived at between the parties (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. **If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.**"*

[Emphasis Supplied]

15. A similar view was taken by the Supreme Court in ***Bhargavi Constructions v. Kothakapu Muthyam Reddy***⁸. While reiterating the law laid down in the ***Jalour Singh*** case it was held that an award passed by a Lok Adalat on the basis of a duly signed settlement attains finality, is executable as a decree of a civil court, and is not

⁸ (2018) 13 SCC 480



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amenable to appeal. It was further held that the only remedy available to an aggrieved party is to invoke the writ jurisdiction of the High Court under Articles 226 and/or 227 of the Constitution, and that too on very limited grounds. The Court categorically held that a separate civil suit to challenge a Lok Adalat award, even on allegations of fraud, is not maintainable and is barred by law, rendering such a plaint liable to rejection under Order VII, Rule 11(d) CPC. The relevant extract is set out below:

"22. The question arose before this Court (three-Judge Bench) in State of Punjab [State of Punjab v. Jalour Singh, (2008) 2 SCC 660 : (2008) 1 SCC (Civ) 669 : (2008) 1 SCC (Cri) 524 : (2008) 1 SCC (L&S) 535] as to what is the remedy available to the person aggrieved of the award passed by the Lok Adalat under Section 20 of the Act. In that case, the award was passed by the Lok Adalat which had resulted in disposal of the appeal pending before the High Court relating to a claim case arising out of the Motor Vehicles Act. One party to the appeal felt aggrieved of the award and, therefore, questioned its legality and correctness by filing a writ petition under Articles 226/227 of the Constitution of India. The High Court dismissed the writ petition holding it to be not maintainable. The aggrieved party, therefore, filed an appeal by way of special leave before this Court. This Court, after examining the scheme of the Act allowed the appeal and set aside the order of the High Court. This Court held that the High Court was not right in dismissing the writ petition as not maintainable. It was held that the only remedy available with the aggrieved person was to challenge the award of the Lok Adalat by filing a writ petition under Article 226 or/and Article 227



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of the Constitution of India in the High Court and that too on very limited grounds. The case was accordingly remanded to the High Court for deciding the writ petition filed by the aggrieved person on its merits in accordance with law.

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24. In our considered view, the aforesaid law laid down by this Court is binding on all the courts in the country by virtue of mandate of Article 141 of the Constitution. This Court, in no uncertain terms, has laid down that challenge to the award of Lok Adalat can be done only by filing a writ petition under Article 226 and/or Article 227 of the Constitution of India in the High Court and that too on very limited grounds. In the light of clear pronouncement of the law by this Court, we are of the opinion that the only remedy available to the aggrieved person (respondents herein/plaintiffs) was to file a writ petition under Article 226 and/or Article 227 of the Constitution of India in the High Court for challenging the award dated 22-8-2007 passed by the Lok Adalat. It was then for the writ court to decide as to whether any ground was made out by the writ petitioners for quashing the award and, if so, whether those grounds are sufficient for its quashing.

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36. We, however, make it clear that the respondent-plaintiffs would be at liberty to challenge the legality and correctness of the award dated 22-8-2007 passed by the Lok Adalat by filing the writ petition under Article 226 or/and Article 227 of the Constitution in the High Court in accordance with law."

[Emphasis Supplied]

16. Thus, the question that arises is, whether the order dated 09.12.2023, can be considered as a Lok Adalat



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Award. An examination of the proceedings before the Lok Adalat reflects that an application under Order 23, Rule 1 of the CPC was filed by each plaintiff that day [hereinafter referred to as the 'Withdrawal Applications']. These Withdrawal Applications set out that in the deliberations before the Lok Adalat, it was resolved that a resolution passed in the Special meeting of the General Body of the defendant/Club would be placed in the Agenda of the Annual General Body Meeting to be held in June 2024 and a memo would be filed by the plaintiffs agreeing to pay a sum of Rs. 9 Lakhs for regularization of their membership of the defendant/Club. The applications further state that the Secretary of the defendant/Club has assured the respondents/plaintiffs that the matter would be amicably resolved. In addition, these applications further set out that in the event the above meeting of June 2024 does not have a favourable result, then the suit can be continued by getting it re-opened or a fresh suit can be filed by the plaintiffs on the same cause of action. The relevant extract



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of one of these Withdrawal Applications and affidavit (as filed in O.S.No.3924/2017) in support, is set out below:

**"APPLICATION UNDER ORDER XXIII RULE 1 OF
THE CODE OF CIVIL PROCEDURE**

*The plaintiff respectfully submits that the matter was **posted on 09.12.2023 before the Lok-Adalath and in pursuance of mediation before the Lok-Adalath the plaintiff has resolved to withdraw the Suit for the reasons stated to in the accompanying affidavit, with liberty to file fresh suit on the same cause of action, in the interest of justice and equity.**"*

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2. That the matter was posted today before Lok-Adalath. **I was present and on behalf of the Defendant its Secretary Sri H.S. Srikanth was present in the deliberation held before the Presiding Officer, Lok-Adalath.**

3. That I along with 11 others had filed Suits against the Defendant, which are all posted before the Hon'ble Court and are all called together. **I have attended the Lok-Adalath on my behalf and also on behalf of 10 others who have authorized me.** In the matter of Mr. Shikaripura Ranganath, he has expired and there is no representation. The deliberation before the Lok-Adalath was on behalf of all the 12 cases and the decision taken before the Lok-Adalath on 09.12.2023 is for me and also on behalf of 11 others which shall be binding on them. For the purpose of convenience my Affidavit shall be filed in all the cases along with the Affidavits of 11 others respectively.

4. That in the deliberation it was resolved that the resolution passed in the Special General Body Meeting **held on 21-04-2017 and also subject matter of the suit would be placed** in the Agenda of the Annual General Meeting of the Defendant Club to be held in the **month of June 2024 and the Memo filed by me agreeing to pay sum of Rs.9,00,000/- for**



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regularizing my Membership in the Defendant Club would be considered. The same would apply to all other cases respectively.

5. That Mr.Srikanth, the Secretary of Defendant Club **assured the Presiding Officer, Lok-Adalath that my case for payment of Rs.9,00,000/- would be considered by giving all opportunities to me, i.e., to be present in the proposed General Body Meeting to be held in June 2024 and the matter would be amicably resolved. Same to apply to other 10 cases also.**

6. **That it was agreed by Mr.Srikanth and myself that in the event of the resolution of General Body Meeting of Defendant proposed to be held in the month of June 2024 does not have a favourable result in my favour, then I can continue the suit by getting it re-opened or file a fresh suit on same cause of action against the Defendant and get my grievances against the Defendant pertaining to my Permanent** Membership in the Defendant Club, i.e., with Membership of the year 2007 including the rights of the dependents of members.

7. That I respectfully submit that I have filed the application in pursuance of the deliberations held before the Lok-Adalath. I have filed the application on my own without any force or undue influence. **In the given facts and circumstances the result of the deliberations held before the Lok-Adalath, it is appropriate that I filed the application for resolution of my issues with Defendant Club with respect to my Membership in the Defendant Club."**

[Emphasis Supplied]

16.1 It was further stated in the application/affidavit filed by the respondents/plaintiffs that the defendant/Club would not be able to consider the case of the plaintiffs since the matter was sub-judice, the suit would have to be withdrawn



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for the matter to be considered by the Annual General Body Meeting. The relevant extract is as below:

"8. That I have filed the application on the basis of the sole reason that, if the suit is pending, the Annual General Body Meeting of the Defendant Club will not be able to consider my case, if the matter is sub-judice. Accordingly, on the basis of the assurance by the Secretary of Defendant Club before the Lok-Adalath I have filed the application."

[Emphasis Supplied]

17. It is also apposite to set out the proceedings before the Lok-Adalat as held on 09.12.2023, which are below:

"Matter was called before the Lok-Adalat.

Plaintiff and counsel present.

*The secretary of the defendant club present. Negotiation held. **In view of the negotiation between the parties, plaintiff counsel filed application U/o 23 rule of CPC to withdraw the suit in terms of the arguments made in the accompanying affidavit. In view of the application filed by the plaintiff the suit is withdrawn.***

The plaintiff is at liberty to reopen the suit and to continue with the suit or to file a fresh suit on the same cause of action against the defendant in the event of resolution of the general body meeting of the defendant club proposed to be held in the month of June-2024 does not have a result in favour of the plaintiff.

The plaintiff is permitted to withdraw the suit. Accordingly, the suit is dismissed as withdrawn."

[Emphasis Supplied]



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17.1 The order sheet was signed by the Advocate Conciliator and Judicial Conciliator as evidence of these proceedings. It is also signed by the plaintiff in Writ Petition No.4306 of 2026/O.S.No.3924 of 2017, as duly authorized by the plaintiffs.

18. Subsequently, and as stated above, multiple applications under Section 151 of the CPC were filed by the plaintiffs, seeking to re-open the suits filed. It was stated therein that since the defendant/Club failed to consider the relief sought under the terms and conditions of the compromise petition, the suits be re-opened. The relevant extract of one such application as filed in O.S.No.3924/2017 is below:

"APPLICATION UNDER SECTION 151 OF CODE OF CIVIL PROCEDURE; that for the reasons sworn to in the accompanying affidavit this Hon'ble court may be pleased to reopen the case and permit the plaintiff to continue the case as per the order dated 09.12.2023 passed by this Hon'ble court in the interest of justice and equity.

AFFIDAVIT

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2. That, the case was referred to Lok Adalat on 09-12-2023. **I was authorized to appear in Lok Adalat proceedings and deliberate on behalf of myself and**



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on behalf of plaintiffs in other similar suits who had filed the cases against defendant. The secretary of defendant Mr.Srikanth had come and participated in Lok Adalat proceedings.

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4. That the **compromise between me** and the defendant club was that the **defendant club would hold a general body meeting in the Club and would address the issue raised in the suit and consider the relief sought in the suit, further I was given liberty to reopen the suit and to continue with the suit or to file a fresh suit on the same cause of action against the defendant in the event of resolution of the general body meeting of the defendant club proposed to be held in the month of June 2024 does not have a result in my favour. Accordingly, the defendant club has failed to consider my relief as per the terms and conditions of the compromise petition. Hence, I have left with no alternative or efficacious remedy but to invoke the liberty given to me to reopen and continue the case as per the orders of this Hon'ble court dated 09.12.2023.** It is just and necessary that the application to reopen has to be considered to continue the suit against the defendant club."

[Emphasis Supplied]

19. It is the contention of the defendant/Club in the present case that once the Lok Adalat Award was passed, the Trial Court became *functus officio* and could not have passed an order re-opening the case. In addition, it is contended that the *lis* in these suits has come to an end,



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since the General Body of the defendant/Club has already considered the case of the plaintiffs.

20. However, clearly from the details as are set out above, although a settlement was arrived at between the parties, it was pursuant to an application under Order 23, Rule 1 of the CPC was filed by the plaintiffs. The Withdrawal Applications further sought liberty to file a fresh suit on the same cause of action. The order passed by the Lok Adalat on 09.12.2023 also records that the suit is withdrawn with liberty to re-open the suit in the event that the resolution of the issue does not have a favourable result for the plaintiffs.

21. Both these applications and the order passed references the fact that the actual settlement would take place at the meeting of the General Body of the defendant/Club to be held in June, 2024. Thus, in effect there was no settlement that took place at the Lok Adalat at all. It was only a pre-cursor to a settlement which, undisputably, did not fructify.



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22. There is another aspect to the matter as well. As is evident, the provisions of sub-section (3) of Section 20 of the LSA Act, provides that a Lok Adalat may proceed to dispose of a case, where there is an Award made, which is duly executed by the parties. Sub-Section (5) of Section 20 of the LSA Act also provides that where no Award is made on the ground that no compromise or settlement could be arrived at, the case is to be returned to the Court. Section 21 of the LSA Act provides that where an Award is passed by the Lok Adalat, the same would have the effect of a Decree and can be enforced accordingly. The relevant extract of the Sections 20 and 21 of the LSA Act is below:

"20. Cognizance of cases by Lok Adalats.—

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(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), **the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.**

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(5) Where **no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.**



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21. Award of Lok Adalat.—(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870 (7 of 1870).—(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

[Emphasis Supplied]

22.1 Thus, where there is no Award, but a settlement was reached between the parties which required the plaintiffs to withdraw their suits before the Court, what was required to be done by the Lok Adalat was to refer the matter back to the Civil Court, to take the necessary steps and pass an appropriate order. However, in the present case, the Lok Adalat assumed the powers of a Civil Court and passed an order instead of an Award.

23. The Supreme Court in the case of **B.P. Moideen Sevamandir And Another vs. A.M. Kutty Hassan**⁹, while clarifying this aspect has held that if there is a case referred to a Lok Adalat, only there are two courses that are open to

⁹ (2009) 2 SCC 198



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it: (a) if a compromise or settlement is arrived at, to make an award; or (b) if there is no compromise or settlement, to return the record with a failure report to the Court. There can be no third 'hybrid order' by the Lok Adalat containing directions. The relevant extract is set out below:

"7. It is unfortunate that the learned members of the Lok Adalat and the learned Single Judge totally lost sight of the purpose and scope of Lok Adalats. We may conveniently recall what this Court has said about the scope of Lok Adalats, (after referring to the relevant provisions of the Legal Services Authorities Act, 1987), in State of Punjab vs. Jalour Singh [2008 (2) SCC 660] :-

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8. When a case is referred to the Lok Adalat for settlement, two courses are open to it : (a) if a compromise or a settlement is arrived at between the parties, to make an award, incorporating such compromise or settlement (which when signed by the parties and countersigned by the members of the Lok Adalat, has the force of a decree); or (b) if there is no compromise or settlement, to return the record with a failure report to the court. There can be no third hybrid order by the Lok Adalat containing directions to the parties by way of final decision, with a further direction to the parties to settle the case in terms of such directions. In fact, there cannot be an 'award' when there is no settlement. Nor can there be any 'directions' by the Lok Adalat determining the rights/obligations/title of parties, when there is no settlement. The settlement should precede the award and not vice versa. When the Lok Adalat records the minutes of a proceeding referring to certain terms and directs the parties to draw a compromise deed or a memorandum of settlement and file it before the court, **it means that there is no final or concluded settlement and the Lok Adalat is only making tentative suggestions for settlement; and such a proceeding**



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recorded by the Lok Adalat, even if it is termed as an `award', is not an `award of the Lok Adalat'."

[Emphasis Supplied]

23.1 A similar view was taken by the Coordinate Bench of this Court in the case of ***Yallappa vs. Anand and Others***¹⁰. The relevant extract is set out below:

"4. Annexure-F is the copy of the compromise entered into between the plaintiff and defendants 2 to 5 before the adalat. In para-4 certain extent of properties are also allotted to the share of the petitioner who was the 1st defendant before the Trial Court. But unfortunately, petitioner herein is not a party to the compromise arrived at before the adalat and it is seen from the order-sheet maintained by the Lok Adalat that adalat has passed a judicial order on the application filed by the plaintiff under Order-23 Rule-1 of CPC permitting the plaintiff to abandon the claim against the 1st defendant and dismissing the suit against the 1st defendant/petitioner. **From looking into the compromise which is accepted by the adalat, it is clear that in the absence of the petitioner, certain properties are also allotted to the share of the petitioner and a final decree is drawn though the suit is dismissed against the petitioner. Therefore, this Court is of the opinion that adalat has exceeded its jurisdiction in accepting such compromise petition and also in passing a judicial order on an application filed by the plaintiff under Order R-23 Rule-1 of CPC to abandon the claim against the petitioner herein. Therefore, petition is required to be allowed."**

[Emphasis Supplied]

¹⁰ ILR 2006 KAR 4445



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24. In the present case, as was observed by the learned Trial Court, no Joint Memo envisaging a compromise in the Lok Adalat was executed by the parties and neither did the defendant/club execute any document evidencing a settlement between the parties. Only the Withdrawal Applications were filed by the respondents/plaintiffs and an 'Order' was passed by the Lok Adalat Court.

25. Subsequently, the learned Trial Court allowed the applications for reopening these suits filed by the respondents/plaintiffs. The Supreme Court in **Jet Plywood** case held that a Court does not become functus officio merely upon permitting withdrawal of a suit. Where the CPC contains no specific provision for recall, the Court may exercise its inherent power under Section 151 CPC to recall such an order in the interest of justice, particularly where the withdrawal was due to mistake or misrepresentation. Thus, the question is not one of lack of jurisdiction, but whether the circumstances justify exercise of the Court's



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inherent power of recall. The relevant extract of the **Jet**

Plywood case is set out below:

"24. From the order of the learned Civil Judge (Senior Division), 9th Court at Alipore, it is clear that he had had no intention of granting any leave for filing of a fresh suit on the same cause of action while allowing the plaintiff to withdraw his suit. **That does not, however, mean that by passing such an order the learned court divested itself of its inherent power to recall its said order, which fact is also evident from the order itself which indicates that the court did not find any scope to exercise its inherent powers under Section 151 of the Code of Civil Procedure for recalling the order passed by it earlier.** In the circumstances set out in the order of 24-9-2004, the learned trial court felt that no case had been made out to recall the order which had been made at the instance of the plaintiff himself. It was, therefore, not a question of lack of jurisdiction but the conscious decision of the court not to exercise such jurisdiction in favour of the plaintiff.

25. The aforesaid position was reiterated by the learned Single Judge of the High Court in his order dated 4-2-2005 though the language used by him is not entirely convincing. **However, the position was clarified by the learned Judge in his subsequent order dated 14-3-2005 in which reference has been made to a Division Bench decision of the Calcutta High Court in Rameswar Sarkar [AIR 1986 Cal 19 : (1985) 2 CHN 482] which, in our view, correctly explains the law with regard to the inherent powers of the Court to do justice between the parties. There is no doubt in our minds that in the absence of a specific provision in the Code of Civil Procedure providing for the filing of an application for recalling of an order permitting withdrawal of a suit, the provisions of Section 151 of the Civil Procedure Code can be resorted to in the interest of justice. The principle is well established that when the Code of Civil Procedure is silent regarding a procedural aspect, the inherent power of the court can come to its aid to act ex debito justitiae for doing real and substantial justice between the parties. This Court had occasion to observe in Manohar Lal Chopra v. Rai Bahadur Rao**



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Raja Seth Hiralal [1962 Supp (1) SCR 450 : AIR 1962 SC 527] as follows: (SCR p. 459)

"It is well settled that the provisions of the Code are not exhaustive for the simple reason that the legislature is incapable of contemplating all the possible circumstances which may arise in future litigation and consequently for providing the procedure for them."

26. Based on the aforesaid principle, the Division Bench of the Calcutta High Court, in almost identical circumstances in Rameswar Sarkar case [AIR 1986 Cal 19 : (1985) 2 CHN 482], allowed the application for withdrawal of the suit in exercise of inherent powers under Section 151 of the Code of Civil Procedure, upon holding that when through mistake the plaintiff had withdrawn the suit, the court would not be powerless to set aside the order permitting withdrawal of the suit.

27. We are of the view that the law having been correctly stated in the aforesaid case, the learned Single Judge of the Calcutta High Court in making an order on the same lines did not commit any error of jurisdiction which calls for any interference in these appeals."

[Emphasis Supplied]

25.1 The judgment in the ***Jet Plywood*** case relied upon the judgment of Division Bench of the Calcutta High Court in ***Rameswar Sarkar v. State of West Bengal***¹¹, wherein it was held that in the absence of any specific provision under the CPC for recalling an order permitting withdrawal

¹¹ 1985 SCC OnLine Cal 139



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of a suit, the Court is not powerless and may exercise its inherent powers under Section 151 CPC to set aside such order in a proper and suitable case, provided there are justifiable reasons for doing so. The relevant extract is set out below:

*"14. **The scope of S. 151 is very wide.** Where there is no provision under the Code of Civil Procedure prescribing any remedy, S. 151 will apply. O. 23, R. 1 provides withdrawal of a suit with or without liberty to file a fresh suit. **There is no provision for getting an order passed on withdrawal application set aside or praying for withdrawal of an application for withdrawal of the suit. In such circumstances, in our opinion, the Court is not powerless to allow withdrawal of an application for withdrawal of a suit in exercise of its inherent power in a proper and suitable case.** In a Bench decision of this Court in Manik Mahato v. Gangapada Mahato, (1977) 81 Cal WN 950, it has been held that the Court has always jurisdiction to entertain and consider an application under S. 151 of the Code of Civil Procedure which is primarily directed for recall of an order passed earlier. Further, it has been held that notwithstanding that an appeal lies against an order rejecting a plaint, an application under S. 151 is maintainable as such an appeal would be of no avail to the plaintiffs as there would be no material before the Appellate Court to go by. In this connection, we may refer to a decision of Lord-Williams, J. in Bhagat Singh v. Dewan Jagbir Sawhney, AIR 1941 Cal 670. It has been observed by his Lordship that the Code is not exhaustive; there are cases which are not provided for in it, and the High Court must not fold its hands and allow injustice to be done. Further, it has been held that the law cannot make express provisions against all inconveniences, and the Court has, therefore, in many cases where the circumstances warrant it, and the necessities of the case require it, to act upon the assumption of the possession of an inherent power to act ex debito justitiae and to do that real and substantial justice for the administration of which alone it exists.*

xxx

xxx

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16. In the instant case, according to the plaintiff he could not realise the seriousness of the prejudice that would be suffered by him if the suit was withdrawn without liberty to file a fresh suit. It has been already noticed that the plaintiff has paid the maximum court-fee of Rs. 10,000/-. It is true that the Court has passed an order dismissing the suit for non-prosecution on the application of the plaintiff but in our opinion, that would be no ground to refuse to do justice. If through mistake the plaintiff has withdrawn the suit, **the Court, in our view, will not be powerless to set aside the order of dismissal of the suit and allow the withdrawal of the application for withdrawal of the suit in exercise of its inherent power.** Most respectfully we beg to differ from the view that the Court has no jurisdiction to allow withdrawal of an application for withdrawal of a suit in exercise of its inherent power as recognised under S. 151 of the Code of Civil Procedure. **It is, however, made clear that there must be some justifiable reasons for allowing withdrawal of the application for withdrawal of the suit.**"

[Emphasis Supplied]

26. Undisputably, in the present case, the plaintiffs acted based on the representation of the Secretary of the defendant/Club who was present during the Lok Adalat proceedings. However, and is set out in the applications filed for reopening by the plaintiffs (I.A.No.1 of 2025) the settlement was that the grievance of the plaintiffs would be redressed by the defendant/Club, which did not happen. In any event and as discussed above, the Lok Adalat exceeded its mandate and passed what can be termed only as a 'hybrid order'. Since no Joint Memo of Settlement was filed,



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no actual settlement took place –only a pre-cursor to a possible settlement – which, admittedly, did not fructify. Thus, the application for reopening was filed and the learned Trial Court exercised its power to recall the '*hybrid order*' passed by the Lok Adalat.

VI. Conclusion:

27. The learned Trial Court after examining the circumstances of the present case found that the circumstances warranted the application(s) for recall to be allowed. In view of the foregoing discussions, this Court finds no cause to interfere with such decision in exercise of its powers under Article 227 of the Constitution.

28. Accordingly, W.P. No. 4306 of 2026; W.P. No. 7083 of 2026; W.P. No. 7093 of 2026; W.P. No.7097 of 2026; W.P. No.7098 of 2026; W.P. No.7102 of 2026; W.P.No.7127 of 2026; W.P. No.7130 of 2026 and W.P. No.7160 of 2026 are ***dismissed***. Pending applications, if any, stand closed.



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29. It is clarified that all rights and contentions of both parties are left open to be agitated before the learned Trial Court.

Digitally signed by TARA
VITASTA GANJU
Location: HIGH COURT
OF KARNATAKA
(TARA VITASTA GANJU)
JUDGE

YN/KS
List No.:1 Sl.No.1