

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 54 of 2016**

1. Jagdish S/o Buddhuuram, Aged About 37 Years By Caste Dhanuhar, R/o Village Barpali, Tahsil Janjgir, District Bilaspur, Now District Janjgir Champa (Chhattisgarh)
2. Gangaram, S/o Buddhuram, Aged About 35 Years By Caste Dhanuhar, R/o Village Barpali, Tahsil Janjgir, District Bilaspur, Now District Janjgir Champa (Chhattisgarh)
3. (A) Gangabai Wd/o Tiharu Ram, Aged About 38 Years By Caste Dhanuhar, R/o Village Barpali, Tahsil Janjgir, District Bilaspur, Now District Janjgir Champa (Chhattisgarh)
3. (B) Maan Singh S/o Tiharu, Aged About 19 Years By Caste Dhanuhar, R/o Village Barpali, Tahsil Janjgir, District Bilaspur, Now District Janjgir Champa (Chhattisgarh)
4. Sunder, S/o Sukhram, Aged About 23 Years By Caste Dhanuhar, R/o Village Barpali, Tahsil Janjgir, District Bilaspur, Now District Janjgir Champa (Chhattisgarh)

---- Petitioners**Versus**

1. State Of Madhya Pradesh (Now State Of Chhattisgarh) Through The Collector, Bilaspur, Now District Janjgir Champa (Chhattisgarh)
2. The Additional Collector, Korba, District Bilaspur, Now District Korba (Chhattisgarh)
3. The Sub Divisional Officer, Janjgir, District Bilaspur, Now District Janjgir Champa (Chhattisgarh)
4. Naib Tahsildar, Janjgir, District Janjgir Champa (Chhattisgarh)
5. Gram Panchayat Sarpanch Pachri, Village Barpali, District Bilaspur Now District Janjgir Champa (Chhattisgarh)
6. Presiding Officer, Lok Adalat, Bench 4, Janjgir, District Janjgir Champa (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Goutam Khetrapal, Advocate.
For Respondents No.1 to 4	:	Shri S.C. Khakhariya, Deputy A.G.
Other Respondents	:	Not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order on Board****08/02/2016**

1. Learned counsel for the Petitioners submits that since a pure question

of law is involved in the matter., the matter may be disposed of without noticing Respondent No.5 – Gram Panchayat Sarpanch Pachri and also issuance of notice to Respondent No.6 is not necessary, as per law. On due consideration, the matter is heard finally at the motion stage without issuance of notice to Respondent No.5.

2. The brief facts required for disposal of the instant W.P.(227) are that Civil Suit No. 183A of 1997 (New Number 102A of 2011) (*Jagdish and 3 Others vs. State of Chhattisgarh and 4 Others*) was pending before the Civil Judge, Class-I, Akaltara, District Janjgir-Champa, Chhattisgarh. During pendency of the said civil suit, on 7.2.2012, at the request of both the parties the matter was referred for disposal as per relevant provisions of the Legal Services Authorities Act, 1987 (for short 'Act of 1987'). On 4.3.2012, the matter was taken up in the Lok Adalat and the Plaintiffs' prayed that they do not want to prosecute the suit further hence, the suit may be dismissed for non-prosecution in the Lok Adalat. As prayed, the civil suit is dismissed for non-prosecution in the Lok Adalat.

3. The Plaintiffs/ Petitioners have challenged the said order before this Court praying that the matter requires interference under Article 227 of the Constitution of India. The order passed by the Lok Adalat dated 4.3.2012 is without any authority of law as per provisions of Section 20 Sub-section (5) of the Act of 1987 since no compromise or settlement could be arrived at between the parties. The record of the case ought to have been returned by it to the Court, from which the reference has been received under Sub-section (1) for disposal in accordance with law.

4. Learned counsel for the Plaintiffs/ Petitioners further submits that as per provisions of Sub-section (7) of Section 20 of the Act of 1987 the Court

having jurisdiction to hear the matter where the record of the case is returned under Sub-section (5) of the Act of 1987 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) of Section 20 of the Act of 1987 thereby it is submitted that as the order passed by the Lok Adalat is beyond jurisdiction hence, the same may be set aside and the case may be sent back to the Court below for further hearing / trial under the provisions of law.

5. Learned counsel for the Petitioners supported the grounds taken in the petition and prayed that as per the provisions of Section 20 Sub-section (1) (5) (7) of the Act of 1987 the impugned order may be set aside and the matter be sent back for further hearing to the Court from where it was referred to the Lok Adalat.

6. Learned counsel for Respondents No.1 to 4 opposed the submissions made by Learned Counsel for the Petitioners.

7. For the appreciation of the facts and the relief as prayed in the instant writ petition and also the arguments advanced in this behalf by the Petitioners, provisions of law as contained in Section 20 sub-section (1) (5) (7) are perused which are as under:

“[20. Cognizance of cases by Lok Adalats :-

(1) Where in any case referred to in clause (i) of sub-section (5) of section 19, -

(i) (a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the Court, for referring the case to the Lok Adalat for settlement and if such Court is prima facie satisfied that there are chances of such settlement; or

(ii) the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the Court shall refer the case to the Lok Adalat :

Provided that, no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such Court except after giving a reasonable opportunity of being heard to the parties.

(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).]"

8. From perusal of the entire order-sheets, it is undisputedly proved that the civil suit was pending before the Civil Judge, Class I, Akaltara, Janjgir-Champa. On 7.2.2012, at the request of both the parties, the matter was listed before the Lok Adalat. On 4.3.2012, upon considering the Plaintiffs' prayer that they do not want to prosecute the suit further, the Lok Adalat dismissed the suit for want of prosecution.

9. From perusal of the above legal provisions, it is crystal clear that if no compromise or settlement could be arrived at between the parties, it shall be the duty of the Lok Adalat to return the case to the Court from which the reference was made i.e. if the Plaintiffs prayed that they do not want to prosecute the said civil suit it was the duty of the Lok Adalat to return the matter to the Court from where the Lok Adalat had received the reference.

10. The Lok Adalat had no authority to dismiss the civil suit received on a reference on account of non-prosecution. Whatever the duty and jurisdiction given to the Lok Adalat is well defined under Sections 20, 21 and 22 of the Act of 1987. The Lok Adalat cannot dispose of any civil suit for non-prosecution and is required to return the case to the Court and the Court may, after receipt of the record, shall proceed and dispose of the matter under the provisions of law as the concerned Court has the authority to conduct the trial or dispose of the matter under the provisions of law.

11. On due consideration of the above facts and legal provisions, it reveals that the Lok Adalat, Akaltara, Janjgir-Champa set aside the plaint on account of the prayer for non-prosecution thereof made in this behalf by the Plaintiffs and thereby committed grave illegality and impropriety which requires interference under the jurisdiction vested with this Court under Article 227 of the Constitution of India.

12. Consequently, the order passed by the Lok Adalat on 4.3.2012 is hereby set aside. The trial Court, under Sub-section (7) of Section 20 of the Act of 1987, shall now proceed to deal with the case from the stage which was reached by it before reference of the case to Lok Adalat under Sub-section (1) of Section 20 of the Act of 1987. The District Judge, Janjgir-Champa, Chhattisgarh is directed to direct the concerned Judge having jurisdiction to dispose of the matter as per law.

13. Registrar General is directed to circulate a copy of this order to all Presiding Officers of the Lok Adalats functioning in the State to make them aware of provisions of law with regard to dealing with prayer for non-prosecution and return of such case to the concerned Court.

14. The Petitioners/ Plaintiffs and Respondents No.1 to 4 who are present while hearing of this W.P. (227) are directed to remain present before the concerned trial Court/ Court of District Judge, Janjgir-Champa, Chhattisgarh either in person or through their counsel on 16.3.2016 for further hearing/ conducting of trial as per law.

15. The trial Court is also directed to issue notice to Respondent No.5 and after his representation, if he so wishes, proceed with the matter according to law.

Sd/-
Chandra Bhushan Bajpai
Judge