

Civil Revision No.7372-2014

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Civil Revision No.7372-2014 (O & M)
Date of Decision: 24.02.2016**

Ramesh Kumar and another

... Petitioner(s)

Versus

Luxmi Devi and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Sushil Jain, Advocate,
for the petitioners.

Mr. Deepak Sonak, Advocate,
for respondent Nos.1 and 2.

Paramjeet Singh Dhaliwal, J. (Oral)

CM-24363-CII-2014

Allowed as prayed for. For the reasons mentioned in the application, delay of 3 days in filing the revision is condoned.

CM-24364-CII-2014

The present application is for impleading the legal representatives of deceased-defendant (Kanwar Bhan), who is stated to have expired. The legal representatives of deceased-defendant are mentioned in para 2 of the application. It is stated that there is no other

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legal heir of deceased-Kanwar Bhan except the persons mentioned in the application. It is also stated that petitioners being sons of deceased-Kanwar Bhan are aggrieved party in the present case.

Heard.

Application is allowed, subject to all just exceptions. The petitioners are ordered to be impleaded as legal heirs of deceased for limited purpose of pursuing this revision.

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Instant civil revision has been filed under Article 227 of the Constitution of India for setting aside the order dated 23.07.2014 (Annexure P-7) passed by learned Civil Judge (Jr. Divn.), Sonapat whereby application filed by applicant-Kanwar Bhan (since deceased) for setting aside the judgment and decree dated 18.12.2008 (Annexure P-3) passed by learned Civil Judge (Jr. Divn.), Sonapat (Lok Adalat), has been dismissed being not maintainable.

I have heard learned counsel for the parties and perused the record.

Respondent No.1 herein filed civil suit titled as 'Luxmi Devi vs. Kanwar Bhan'. Written statement was filed in that suit admitting the claim of the plaintiff as correct. Ultimately, the matter was taken up in the Mega Lok Adalat wherein the award/judgment and decree dated 18.12.2008 was passed. Thereafter, Kanwar Bhan filed civil suit challenging the award/judgment and decree dated 18.12.2008 passed in

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the Mega Lok Adalat which was dismissed with liberty to approach this Court for redressal of his grievance. Instead of filing petition in this Court, the said Kanwar Bhan filed application before the concerned court for setting aside the award/judgment and decree dated 18.12.2008 passed in the Mega Lok Adalat.

Be that as it may, the fact remains that actually the award dated 18.12.2008 is a decree passed by the Lok Adalat which cannot be challenged in appeal or otherwise. The said Kanwar Bhan had earlier also challenged the award dated 18.12.2008 by filing a civil suit which has been dismissed with liberty to approach this Court for redressal of his grievance in accordance with law. Once father of the petitioners approached the civil court challenging the award dated 18.12.2008 by filing a civil suit, the question of filing separate application for setting aside the said award in the concerned court does not arise. Otherwise also, the civil court has passed a detailed and well-reasoned order which does not warrant any interference.

Once the decree has been passed on the basis of admission, then it is for the person who subsequently denies it and alleges fraud to prove his version as it is a rebuttable presumption.

Moreover, the Hon'ble Surpeme Court in ***Bar Council of India vs. Union of India*** 2012 (4) Recent Apex Judgments (R.A.J.) 309, has held as under:

“33. *There is no inherent right of appeal. Appeal is*

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always a creature of statute and if no appeal is provided to an aggrieved party in a particular statute, that by itself may not render that statute unconstitutional. Section 22-E(1) makes every award of the Permanent Lok Adalat under 1987 Act either on merit or in terms of a settlement final and binding on all the parties thereto and on persons claiming under them. No appeal is provided from the award passed by the Permanent Lok Adalat but that, in our opinion, does not render the impugned provisions unconstitutional. In the first place, having regard to the nature of dispute upto a specific pecuniary limit relating to public utility service and resolution of such dispute by the procedure provided in Section 22-C(1) to 22-C(8), it is important that such dispute is brought to an end at the earliest and is not prolonged unnecessarily. Secondly, and more importantly, if at all a party to the dispute has a grievance against the award of Permanent Lok Adalat he can always approach the High Court under its supervisory and extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. There is no merit in the submission of the learned counsel for the petitioner that in that situation the burden of litigation would be brought back on the High Courts after the award is passed by the Permanent Lok Adalat on merits.

34. The challenge to the validity of the impugned provisions came up before this Court in S.N. Pandey (supra). A three-Judge Bench of this Court was not persuaded by the challenge and held as under:

“We have gone through the provisions of the said Chapter which contemplated the setting up of permanent Lok Adalats, for deciding disputes in which public utility services is one of the matters

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involved. It is quite obvious that the effort of the legislature is to decrease the work load in the Courts by resorting to alternative disputes resolution. Lok Adalat is a mode of dispute resolution which has been in vogue since over two decades. Hundreds of thousands of cases have been settled through this mechanism and is undisputedly a fast means of dispensation of justice. The litigation is brought to a quick end with no further appeals or anguish to the litigants. The constitution of the permanent Lok Adalats mechanism contemplate the judicial officer or a retired judicial officer being there alongwith other persons having adequate experience in the public utility services.

We do not find any constitutional infirmity in the said legislation. The act ensures that justice will be available to the litigant speedily and impartially. We do emphasis that the persons who are appointed on the Permanent Lok Adalats should be person of integrity and adequate experience. Appropriate rules, inter alia in this regard, no doubt will have to be framed, if not already in place. We upheld the validity of the said Act and hope the Permanent Lok Adalats will be set up at an early date. The Lok Adalats are enacted to Primarily bring about settlement amongst the parties. The parties are normally required to be present in person and since the impugned provisions are in the interest of the litigating public, the Lok Adalats shall perform their duties and will function; even if members of the Bar choose not to appear.”

35. *Learned counsel for the petitioner submitted that the disposal of the writ petition filed by S.N. Pandey was in limine and the order passed therein cannot be construed as a binding precedent. It was also submitted that the said decision does not declare any law under Article 141 of the Constitution since points now raised in the present matter, were neither argued nor discussed.*

36. *We are not persuaded by the submission of the learned counsel for the petitioner. Although the disposal of writ petition in S.N. Pandey was in limine and the order is*

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brief but the court has disposed of the same on merits. In B. Prabhakar Rao⁸ , O. Chinnappa Reddy ,J. did observe in para 22 that the dismissal in limine of a writ petition cannot possibly bar the subsequent writ petitions but at the same time he also observed that such a dismissal in limine may inhibit the discretion of the Court. V. Khalid, J. in his supplementing judgment in para 27(6) expounded the position that normally this Court would be disinclined to entertain or to hear petitions raising identical points again where on an earlier occasion, the matter was heard and dismissed. Not that this Court had no jurisdiction to entertain such matters, but would normally exercise its discretion against it. We are in complete agreement with the above view of V. Khalid, J. It is against public policy and well defined principles of judicial discretion to entertain or hear petitions relating to same subject matter where the matter was heard and dismissed on an earlier occasion.

37. Independent of the view of this Court in S.N. Pandey, for the reasons that we have indicated above, we find no merit in the challenge to the impugned provisions of Chapter VI-A brought in the 1987 Act by 2002 Amendment Act.”

In view of above discussion, instant revision petition is dismissed. However, the petitioners will be at liberty to avail the remedy as available to them including filing of writ petition in accordance with law.

24.02.2016
parveen kumar

(Paramjeet Singh Dhaliwal)
Judge