

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

CWP No.17232 of 2016

Date of Decision:09.11.2016

Dalvinder Singh

.....Petitioner

Vs.

Permanent Lok Adalat and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Ashwani Bakshi, Advocate for respondent No.5.

RAKESH KUMAR JAIN, J.(Oral)

This petition is filed in order to challenge the validity of the order of the Permanent Lok Adalat (PUS), Sirsa dated 29.7.2016 issuing a restraint order at the initial stage of the proceedings initiated on an application filed under Section 22-C of the Legal Services Authority Act, 1987 (for short, 'the Act').

Counsel for the petitioner has submitted that respondent No.5 filed an application under Section 22-C of the Act for the purpose of settlement of his dispute with his brother's grandson (petitioner). The Permanent Lok Adalat recorded the following order, which is impugned herein:-

“Petition presented today. It be checked and registered. Notice of the petition be given to the respondent(s) for 11.8.2016 on filing of Rcs/copies. Till then the respondents are restrained from installing H.T Line from the land of the petitioner for

supplying electricity to Davinder Singh and Gurjant Singh etc.”

Counsel for the petitioner has submitted that the permanent Lok Adalat has acted without jurisdiction in passing the impugned order as no such power flows from any of the provisions much less Section 22-C of the Act. It is further submitted that at the initial stage when the application under Section 22-C of the Act is filed, the Permanent Lok Adalat has to first act as a conciliator before turning to its role of an adjudicator. It is further submitted that had it been a case where the parties had failed to reach to an agreement in terms of Section 22(C)(7) of the Act and the Permanent Lok Adalat had acquired the jurisdiction to decide the dispute on merits, then the matter would have been altogether different but at the threshold, the PLA had no jurisdiction to pass such an order.

On the other hand, learned counsel for the respondents has submitted that the injunction order has been passed as the Permanent Lok Adalat is a Tribunal and has the trappings of the Court. In this regard, he has relied upon a judgment of the Supreme Court rendered in the case of **Super Cassettes Industries Ltd. v. Music Broadcast Pvt. Ltd., 2012(3) R.A.J. 61.** Against this, counsel for the petitioner has referred to two decision of this Court in the case of **Sham Lal v. State Election Commission, Punjab, 1997(1) R.C.R. (Civil) 82** and **Kundal Singh v. The Executive Magistrate Ist Class, Barnala and others, 1975 PLR 661.**

I have heard learned counsel for the parties and perused the record. In order to appreciate the rival contentions on the issue as to whether the PLA (PUS) has the jurisdiction to pass a restraint order much less injunction at the threshold of the application filed under Section 22-C,

it would be relevant to refer to the provisions of Section 22-C of the Act which are reproduced as under:-

“22C. Cognizance of cases by Permanent Lok Adalat. -

- (1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

- (2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

- (3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it--

- (a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application

points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement

of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.”

It is needless to mention that the object to enact the Act flows from Article 39 of the Constitution of India which provides that the State shall secure that the operation of the legal system promotes justice on the

basis of equal opportunity and shall, in particular, provide free legal aid, by suitable legislation or schemes. The Act was thus enacted to constitute Legal Services Authority to provide free and competent legal service to the weaker sections of the Society and to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and to organise Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity. The Act provides for constitution of Lok Adalats and Permanent Lok Adalats. Lok Adalats have been given jurisdiction to decide issues/ disputes between the parties only on the basis of compromise whereas Chapter VI-A of the Act which deals with the Permanent Lok Adalat which is defined under Section 22-A of the Act and jurisdiction is vested with it to deal with the public utility service which is also defined under Section 22-A(b) of the Act. The constitution of Permanent Lok Adalat is provided under Section 22-B of the Act and the power to have cognizance of the matter presented before it is provided under Section 22-C which is already reproduced hereinabove for ready reference. Section 22-C(1) provides that any party to a dispute may, before the dispute is brought before any Court, make an application to the Permanent Lok Adalat for the settlement of the dispute which means that no application is maintainable before the Permanent Lok Adalat if any such dispute is already pending before any other Court. It further provides that it would not have any jurisdiction in respect of any matter relating to an offence not compoundable. The pecuniary jurisdiction of the Permanent Lok Adalat is also fixed under the Act and also by way of further notifications issued from time to time. Section 22-C(3) lays down the

procedure in respect of the entertainment of an application which is preferred before the Permanent Lok Adalat in which it is specifically provided that the Permanent Lok Adalat would act as a conciliator before the matter is not taken for adjudication on merits i.e. the Permanent Lok Adalat has to make an effort at the pre-stage to decide the dispute between the parties by referring to them various terms of a possible settlement of dispute and if the parties reaches to an agreement on the settlement of the dispute, then their signatures are put on the settlement of the agreement and then the Permanent Lok Adalat would pass an award in terms thereof and provide a copy of the same to each of the party concerned. Once these proceedings are over, the dispute between the parties is stated to be not decided on merits rather it shall be deemed to have been decided by mutual consent with the help of the Permanent Lok Adalat who had formulated the terms of the possible settlement of the dispute between the parties on the basis of their pleadings but in case where the parties fail to reach to any agreement in terms of Section 22-C(7) then the Permanent Lok Adalat after recording any evidence can decide the dispute and at that time it would convert itself into a Court much less Tribunal and shall deal with the matter after taking evidence from both the parties and after appreciation of the evidence may take a decision one way or the other. Hence, in my considered opinion, the Permanent Lok Adalat does not enjoy any kind of power or jurisdiction to pass a restrained order when it is dealing with the application under Section 22C(3) till 22C(7). Hence, the impugned order passed by the Permanent Lok Adalat is patently devoid of jurisdiction and such an order cannot be allowed to survive and hence the same is hereby set

aside. The Registry is directed to send a copy of this order to all the Permanent Lok Adalats functioning in the State of Haryana, UT, Chandigarh for their information and necessary action.

November 09, 2016
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No