

105-B

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.8100 of 2017

Date of Decision : 02.12.2017

HARBANS SINGH (SINCE DECEASED) THROUGH HIS LRS

....PETITIONERS

VERSUS

UNION OF INDIA AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Vishal Aggarwal, Advocate
for the petitioners.

Mr. O.P. Dabla, Senior Panel Counsel
for respondent Nos.1 and 2-UOI.

Service of respondent Nos.3 and 4 dispensed with.

B.S. WALIA, JUDGE (ORAL)

[1] Learned counsel for the petitioners states that respondent Nos.3 and 4 are not necessary party. Therefore, their service be dispensed with. Statement of the learned counsel for the petitioners is taken on record.

[2] Service of respondent Nos.3 and 4 is dispensed with.

[3] Grievance of the petitioners is that execution petition filed by them was disposed of by the National Lok Adalat in terms of unilateral statement of the respondents of the matter having been compromised without any statement having been made to that effect by the petitioners.

[4] Learned counsel states that there was no reason for the

petitioners to have fought litigation for 26 years and pursuant to having been granted compensation of about Rs.1.5 Crores to have thereafter made a compromise before the National Lok Adalat accepting compensation of about Rs.84 lakhs only.

[5] Learned counsel by relying upon the decision of the Hon'ble Supreme Court in 'Union of India versus Ananto (Dead) and Another', 2007(10) SCC 748 contended that since there was no compromise between the parties, therefore, no order could have been passed by the National Lok Adalat. Consequently, impugned order dated 11.02.2017 was liable to be set aside and the matter remanded to the Executing Court to take the execution proceedings to its logical end.

[6] On query, Mr. O.P. Dabla, learned Senior Panel Counsel, appearing on behalf of respondent Nos.1 and 2, stated that the Defence Estate Officer was the competent authority to compromise the matter on behalf of the UOI, that he had authorised Shri Gulshan Kumar, UDC, to appear in the case before the National Lok Adalat but no written or oral instructions were given by the Defence Estate Officer (Circle), Pathankot authorising Shri Gulshan Kumar, UDC, to make a statement before the National Lok Adalat of a compromise having been recorded nor was any such statement made by Shri Gulshan Kumar, UDC, before the National Lok Adalat.

[7] Shri Gulshan Kumar, UDC who is present in Court stated that in fact, his signatures were obtained on the file before the National Lok Adalat without disclosing the purpose for which the same had been obtained and he was under the impression that the signatures were

obtained from him in token of his representing the Defence Estate Officer in the case and at that time none was present on behalf of the petitioners. Affidavit of Shri Gulshan Kumar, UDC, O/o the Defence Estate Officer (Circle), Pathankot as tendered by learned Senior Panel Counsel is taken on record.

[8] Learned counsel for the petitioners contended that neither the petitioners were present nor made any statement before the National Lok Adalat, nor gave any written compromise, nor did the counsel of the petitioners make any statement with regard to any compromise on behalf of the petitioners, therefore, the impugned order passed by the National Lok Adalat was in derogation of the law as well as the decision of the Hon'ble Supreme Court in "Union of India versus Ananto (Dead) and Another' (*supra*). Relevant extract of the aforesaid decision is reproduced hereunder :-

“7. The specific language used in sub-section (3) of Section 20 makes it clear that the Lok Adalat can dispose of a matter by way of a compromise or settlement between the parties. Two crucial terms in sub-sections (3) and (5) of Section 20 are “compromise” and “settlement”. The former expression means settlement of differences by mutual concessions. It is an agreement reached by adjustment of conflicting or opposing claims by reciprocal modification of demands. As per Termes de la Ley, “compromise is a mutual promise of two or more parties that are at controversy”. As per Bouvier it is “an agreement between two or more persons, who, to avoid a law suit, amicable settle their differences, on such terms as they can agree upon”. The word “compromise” implies some element of accommodation on each side. It is not apt to describe total surrender. (See Re NFU Development Trust Ltd., 1973(1) All England Reporter 135 (Ch.D.) A compromise is always bilateral and means mutual adjustment. “Settlement” is termination of legal proceedings by mutual consent. The case at hand did not involve compromise or settlement and could not have been disposed of by Lok Adalat. If no compromise or settlement is or could be arrived at, no order can be passed by the Lok Adalat. Therefore, question of merger of Lok Adalat's order does not arise.”

[9] Since a compromise is always bilateral and a mutual

settlement of the dispute amongst the parties, it is surprising as to how the Presiding Officer of the National Lok Adalat recorded a compromise between the parties as no statement was made by or on behalf of the petitioners and the statement attributed to the Union of India has been denied by Shri Gulshan Kumar, UDC as having been made. Apparently, the case in hand did not involve any compromise or settlement in view of the fact that neither the petitioners put in appearance nor made any statement compromising the matter nor was any compromise in writing filed by the petitioners or their counsel, nor was any statement made by the petitioners counsel about a compromise having been entered into between the petitioners and the Union of India. In the circumstances, the impugned order could not have been passed by the National Lok Adalat and in fact should not have been passed.

[10] In the light of the position as noted above, the impugned order is set aside. The matter is remanded to the Executing Court to take action on the execution application in accordance with law as expeditiously as possible, preferably within a period of six months from the date of receipt of certified copy of this order.

[11] Revision petition is allowed with the aforementioned observations. A copy of this order be placed before the Hon'ble Administrative Judge, Pathankot Sessions Division.

(B.S. WALIA)
JUDGE

December 02, 2017

rajneesh

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No