

238

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

CWP-15493-2015

Date of decision : 13.02.2017

M/s Malibu Estates Private Limited

... Petitioner

Versus

Permanent Lok Adalat and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Anurag Jain, Advocate
for the petitioner.

Mr. Rajesh Arora, Advocate
for respondent No.2.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 11.05.2015 (Annexure P-6), whereby an application under Section 22 (c) of the Legal Services Authority Act, 1987 (for short 'the Act') at the instance of respondent No.2 seeking following relief, despite being objected to, has been allowed:-

“It is, therefore, most humbly prayed that the respondent may kindly be directed to execute and got registered a conveyance deed of plot No.SW-28, Star Wood Road, Malibu Town, Gurgaon, measuring 300 sq. yards in favour of applicant on the expense of respondent in the interest of justice.

Any other relief which this Hon'ble Court deems just and proper may also be granted in favour of the applicant.”

Mr. Anurag Jain, learned counsel appearing on behalf of the petitioner submits that a specific objection with regard to the maintainability

of the application and possession had been taken in the reply. The Lok Adalat did not have the jurisdiction as the petitioner did not agree for reconciliation, though, at the time of notice of motion, it was brought to the notice of this Court that the housing does not come in the definition of 'Public Utility Services', but there is a separate notification dated 19.05.2009 promulgated by the State Government by exercising the powers under Section 22-A of the Act bringing the aforementioned 'housing' under the 'public utility services'.

He further submits that no conciliation effort had been done, in fact, the petitioner never agreed for the same. The interim orders do not reveal the effective efforts for reconciliation as it is just a passing reference that the effort was made. There had to be some reasoning assigned.

This fact was denied by Mr. Rajesh Arora learned counsel appearing on behalf of respondent No.2 and he submits that a collaboration agreement had been entered into between the petitioner viz-a-viz the property in dispute. A conveyance deed in favour of the brother had already been effected, which is evident from Annexure P-3. It is, in this aspect of the matter, the relief was sought. The jurisdiction of the Lok Adalat under Section 22 (c) of the Act has been invoked.

I have heard the learned counsel for the parties and appraised the paper book. No doubt that the housing had been brought within the ambit of 'public utility' as the State has the power to cause amendment by taking the aid of the provisions of Section 22-A of the Act, but the fact remains that in such type of cases where serious dispute is with regard to the possession and as well as the sale price, the question arises is that whether in such circumstances the Lok Adalat would have a jurisdiction to allow the

application and the answer is 'No'. The jurisdiction of the Lok Adalat has already been debated upon by the Hon'ble Supreme Court in "Bar Council of India V/s Union of India" 2012(4) R.C.R. (Civil) 262 and as well as by this Court in "Reliance General Insurance Company Ltd. V/s Vijay Kumar and another" 2012(1) PLR 794. In my view, the remedy, if any, for respondent No.2 was to invoke the provisions of Section 39 of the Specific Relief Act or any appropriate measures, but not in the manner and mode, as indicated above, particularly in case of serious dispute with regard to the sale price and possession, a detailed evidence is required to be led. It has been held in the judgment cited (supra) that only the Civil Court would have the jurisdiction, but not the Lok Adalat. This aspect has not been taken care of, thus, the order, under challenge, is critical and perverse and resultantly, the same is hereby set aside.

This order of mine shall not prevent respondent No.2 to avail the remedy in accordance with law i.e. by filing a civil suit.

In case, such remedy is availed within a period of three months from today, the period spent in the proceedings under the 1987 Act, shall deem to have been condoned.

With the aforesaid observations, the present writ petition stands allowed.

13.02.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**

