

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

CWP No.2656 of 2014
Date of decision : 16.02.2017

Tata Teleservices Limited

...Petitioner

Versus

Sunny and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Aakash Juneja, Advocate for respondent No.1.

Mr. Ankit Aggarwal, Advocate for
Mr. Sumeet Goel, Advocate for respondent No.2.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the impugned order dated 18.09.2013 (Annexure P-9) rendered by the Permanent Lok Adalat for allowing the petition moved under section 22(C) of the Legal Services Authority Act, 1987, whereby petitioner-Company has been directed to give compensation of ₹50,000/- on account of deficiency in services and harassment and further amount of ₹5,000/- on account of litigation expenses.

Mr. Vipin Mahajan, learned counsel appearing on behalf of petitioner submits that petitioner had never issued any connection/mobile No.92555-00076 to the respondent No.1 but to some other person namely

Ram Parsad. There was no contract between Sunny son of Mahinder Kumar and Ram Parsad. In fact, actual user of the mobile handset had already reported regarding the loss of handset on 10.05.2013 and had made a request for issuance of a fresh sim card at Local Distribution Point, Fatehabad.

The entire controversy required a detailed probe and evidence which could not have been adjudicated by the Lok Adalat, in essence, alleged findings regarding the holding of conciliation is nothing but farcical exercise as no sincere efforts were made owing to the specific stand taken in the written statement. In support of his contention, he has relied upon following judgments:-

- 1) Bar Council of India Vs. UOI, 2012(4) RCR (Civil) 262,
- 2) Reliance General Insurance Company Ltd. Vs. Vijay Kumar and another, 2013(5) RCR (Civil) 226.

Per Contra, learned counsel for the respondent(s) submits that sufficient evidence has been placed on record which weighed in the mind of Lok Adalat i.e. Annexure P-1 to show that mobile connection was issued in favour of the petitioner. It was unclinching evidence that led to the finding aforementioned and thus urges this Court for dismissal of the writ petition.

I have heard learned counsel for the parties and appraised the paper book.

Once there is serious dispute with regard to the connection, challenge in the Tribunal, in my view would not trafficking the Civil Court. Detailed evidence was required to be led. This is precisely what has been held by this Court in Reliance General's case (Supra) and as well as by

Hon'ble Supreme Court in Bar Council's case (Supra). This Court in CWP No.11542 of 2015 had an occasion to ponder upon the Act of Lok Adalat of not following the procedure under Sub-Sections 6 and 7 of Section 22 i.e. reconciliation. The zimni orders do not specifically record the factum of any efforts of reconciliation, much less, any satisfaction.

All these factors in my view have not been taken into consideration.

Resultantly, order under challenge is not sustainable and is hereby set aside.

Accordingly, present writ petition is allowed.

Liberty is granted to respondents to avail the alternative remedy of any Civil Court, if permissible. if such remedy is availed, period spent before the Lok Adalat shall deemed to be condoned, in essence, in order to overcome the objection of limitation.

16.02.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No