

225

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

CWP-3303-2017

Date of decision : 24.05.2017

Yogesh and another

... Petitioner(s)

Versus

Sarve Haryana Gramin Bank Branch, Kapriwas and
others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gopal Sharma, Advocate
for the petitioners

Mr. Amit Kumar Goyal, Advocate
for respondent No.1.

AMIT RAWAL, J. (ORAL)

The petitioners have approached this Court seeking following
relief:-

*"Civil Writ Petition under Article 226 of the Constitution of
India seeking writ, order or direction in the nature of
Certiorari for setting aside the impugned award dated
13.02.2016 passed by the Permanent Lok Adalat, Public Utility
Services, Rewari (Annexure P-7).*

AND/OR

*Any such other appropriate writ, order or direction as this
Hon'ble Court may deem fit and proper in the facts and
circumstances of the instant case."*

Concededly, respondent No.1/Sarve Haryana Gramin Bank
Branch Kapriwas had approached the Permanent Lok Adalat, Public Utility

Services, Rewari, under the Punjab Legal Services Authorities Act, 1987, for recovery of an amount of ₹ 18,05,056/- along with interest and the following order has been passed:-

"In brief, the case of the applicant is to the effect that the respondent No.1 Shanti Devi took loan to the tune of ₹ 96,000/- from the applicant-Bank on 27.07.2007 on interest @ 15.75% per annum. In this regard, an agreement dated 27.07.2007 was executed between the parties. The respondent Nos.2 and 3 stood as guarantors. The respondent No.1 has not adhered to the repayment schedule. A sum of ₹ 1805056/- along with interest on 09.01.2014 was outstanding against the respondent No.1.

In the reply, filed by the respondent Nos.1(A) and 1(C), it was pleaded that the applicant was not entitled to recovery the alleged loan as the same has been exempted under the exemption scheme of the Haryana Govt. It was also pleaded that the Bank officials have taken signatures and thumb impression of the respondents on Bank paper without telling the facts mentioned in the loan agreement. The other averments made in the application were denied.

2. In evidence, the applicant has produced affidavit Ex.PW1/A and documents Ex.P1 to P-15.

4. From the above said evidence led by the applicant, which has gone un-rebutted. We hold that the respondents shall be liable to pay ₹ 18,05,056/- along with interest at the rate of 3% per annum from the date of filing of this application which was filed on 27.01.2014. This award is accordingly passed. File be consigned to record-room."

However, this Court vide order dated 20.02.2017 called the explanation of the Permanent Lok Adalat, Public Utility Services, Rewari, through its Chairman by exercising the powers under Article 227 of the Constitution of India, which reads as under:-

"Learned counsel for the petitioners, inter-alia, contends that the remedy for the respondents was to file a civil suit for recovery instead of moving an application under Section 22-C of the Legal Services Authorities Act, 1987 as it was a transaction of loaner and loanee, i.e., between the deceased' father and the bank. The findings rendered by the Permanent Lok Adalat, Public Utility Services, Rewari read as under:-

"4. From the above said evidence led by the applicant, which has gone un-rebutted, we hold that the respondents shall be liable to pay ₹ 18,05,056/- alongwith interest at the rate of 3% per annum from the date of filing of this application which was filed on 27.01.2014. This award is accordingly passed. File be consigned to record-room."

Notice of motion for 31.3.2017.

Dasti as well.

Till then, there shall be interim stay qua award dated 13.2.2016 (Annexure P-6). I also call the explanation of the Permanent Lok Adalat, Public Utility Services, Rewari, through its Chairman, by exercising the powers under Article 227 of the Constitution of India, as to in what mode and manner, the complaints under the garb of civil suits can be entertained and order passed for recovery of the amount from the bank without complying with the provisions of the Indian Evidence Act."

As per the office report, a letter dated 04.05.2017 has been received from the District & Sessions Judge, Rewari regarding explanation, wherein it has been stated that the Chairman, who has passed the said order, is no longer holding the chair.

Learned counsel appearing on behalf of respondent No.1/Bank submits that he may be granted liberty to recover the amount in a competent forum.

Keeping view of the aforementioned facts, particularly the aforementioned order is bereft of the reasoning, much less, the complaint at the instance of the Bank, would not have been decided, the remedy if any, for the Bank, is to institute a civil suit to prove the documents, in accordance with law.

Resultantly, the impugned order dated 13.02.2016 (Annexure P-7), under challenge, is hereby set aside. Liberty is granted to the Bank to recover the amount, in accordance with law.

Disposed of, accordingly.

24.05.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No