

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

CR-2917-2016 (O&M)

Date of decision : 19.2.2018

Shri Akash Khosla

..... Petitioner

Versus

A & H Construction Co and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Dr. Prathibha Khosla, Special Power of Attorney
of the petitioner in person.

Mr. Rajeev Sharma (Raju), Advocate
for respondents No. 1 and 2.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

In terms of the order dated 26.9.2017, passed by this Court respondent has brought a demand draft No. 229855 dated 19.2.2018 amounting to Rs. 15,000/- in favour of the petitioner-Akash Khosla whereas there is some spelling error in mentioning the surname of the petitioner. Demand draft has been handed over to the petitioner. Photocopy of the same is retained on file. It is ordered that if there is any difficulty in encashing the said demand draft, respondent shall be liable to get it corrected and hand over the amended draft to the petitioner.

Impugned in the present revision petition is the order dated 21.3.2016, passed by learned Civil Judge (Junior Division), Chandigarh vide which an application for dismissing the suit of the plaintiff being barred by law was dismissed.

In nutshell, respondent-plaintiff which is a construction company had filed a civil suit for recovery of Rs. 7,19,401.26/- along with future interest before the civil Court on 23.5.2014.

It comes out that before that he has invoked the jurisdiction of the Permanent Lok Adalat on 1.3.2014. In the present application, petitioner-defendant had made the prayer that since the jurisdiction of the Permanent Lok Adalat was invoked, therefore, present suit is liable to be dismissed. The said plea is raised on the basis of provisions of Section 22 (C) of The Legal Services Authority Act, 1987 (for short 'the Act') which are reproduced as under: -

22 (C) 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 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.

Learned trial Court has taken the view that Permanent Lok Adalat has passed the order that since the matter is pending before the civil Court, therefore, same cannot be settled in Lok Adalat.

After hearing the petitioner in person and learned counsel for respondent and giving thoughtful consideration to the documents placed on record, this Court is of the view that Permanent Lok Adalats have been

constituted for settling the dispute at pre-litigative stage.

Section 22 (C) (2) of the Act merely bars the parties from invoking the jurisdiction of the civil Court in the same dispute. Further, it does not in so many words say that civil suit is barred. Section 22(c) of the Act further provides that it is an action of settlement and if the settlement is not arrived, parties can always approach the civil Court. In the present case during the pendency of the dispute, before Permanent Lok Adalat, the plaintiff filed a civil suit for recovery. Now during the pendency of the civil suit, Permanent Lok Adalat has held that the same cannot be settled in the Lok Adalat when the civil suit has been filed. It means that now Permanent Lok Adalat is not seized of the matter though the party should not have approached the civil Court when the dispute is pending before the Permanent Lok Adalat and should have withdrawn the said application. Firstly, the suit cannot be said to be barred by any law. At the worst, it can be said to be pre-mature and such illegality, if any, stands regularized. Hence, there is no ground to dismiss the suit.

In view of above, present petition stands dismissed.

(KULDIP SINGH)
JUDGE

19.2.2018
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No