

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7124 of 2018

Date of Decision: 19.12.2018

Balbir Singh

.....Petitioner

Vs.

M/s Vijay Trading Co. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Atul Goyal, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order dated 18.07.2017 (Annexure P-5), passed by the learned Civil Judge (Junior Division), Ludhiana, which is seen to be passed on the basis of the order of the *Lok Adalat* dated 08.07.2017 (Annexure P-4) (in Civil Suit bearing no. CS/5718/2016, titled as **Balbir Singh vs. Vijay Trading Co. and others**).

Pursuant to the order of this Court dated 14.11.2018, records of the trial Court as also of the *Lok Adalat* has been received, a perusal of which shows that on 17.05.2017 the following order was recorded by the learned Civil Judge (Junior Division), Ludhiana:-

“File put up today before me an application filed by counsel for plaintiff to withdraw the suit. Plaintiff has got recorded his statement that he has compromised matter with the defendants and he do not want proceed with the present case due to which, same be dismissed as withdrawn. The case is adjourned listed for Lok Adalat on 08.07.2017 for further proceedings.”

Thereafter, on 08.07.2017, the following order was recorded before the *Lok Adalat*:-

“File has been taken up in the Lok Adalat. Matter between the parties has been compromised. Statements of the parties have been record in this regard. In view of the said statements, present suit/petition stands dismissed as withdrawn being compromised. Both the parties shall remain bound by their statements. If any of the party resiles from the statement at any point of time, opposite party will have right to take action as per law. Court fee be refunded. File be sent to regular Court and be consigned after due compliance.

Very obviously, in view of what had been recorded before the trial Court itself, to the effect that the matter had been compromised between the parties, with the petitioner (plaintiff in the suit) therefore not pursuing the suit, what had been ordered to be put before the *Lok Adalat* was only the issue of whether the Court fee as had been affixed by the petitioner on his plaint, was to be refunded to him or not.

Even though learned counsel may be correct in stating that the statements recorded before the *Lok Adalat* actually are not a part of the record of the case in the lower court/*Lok Adalat*, however, as regards the suit itself, I do not see how any statements recorded before the *Lok Adalat* can be of any help to the petitioner, because at best, the statements recorded before the *Lok Adalat* could only have been with regard to whether the respondents-defendants had any objection to the court fee being refunded or not.

That being so, the statements of the parties as recorded before the *Lok Adalat* not being on the record are immaterial as regards the withdrawal of the suit by the petitioner, which was as per the statement made by his counsel before the

trial Court itself on 17.05.2017.

Learned counsel however submits that the respondents not having honoured the compromise entered into, the petitioner is entitled to seek revival of his suit; but the order of the *Lok Adalat* dated 08.07.2017, to the effect that the statements of the parties had been recorded before that forum, will come in his way, with those statements not actually on record.

Having considered the above, this petition is disposed of by directing the trial Court that if any such application seeking to revive the suit is filed, on the ground that the compromise stated to have been entered into between the parties has not been honoured, that application would be dealt with wholly on its own merits, including the maintainability thereof, ignoring any statement made before the *Lok Adalat*, such statement obviously, to repeat, only being competent as regards the refund of the court fee.

December 19, 2018
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes