

CR-7827-2015 (O&M)

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

CR-7827-2015 (O&M)

Date of decision : 08.01.2019

The Fatehabad Central Co-operative Bank Limited

... Petitioner

Versus

Atma Ram

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Sahu, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Advocate for the respondent.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 05.08.2015, whereby an application submitted by the respondent for waiver of the interest, has been allowed and the recoverable amount has been held to be ₹5,54,130/-.

Learned counsel for the petitioner submitted that the respondent had availed the loan facility of ₹2,31,000/- and agreed to pay the interest @ 17% per annum, but refused to pay the same. Since the petitioner is a society and governed by the provisions of Haryana Cooperatives Societies Act, 1984 (in short 'the 1984 Act'), an application under Section 102 of the 1984 Act came to be decided, whereby the respondent was called upon to pay a sum of ₹8,21,550/-. Without complying with the order, invoked the jurisdiction of Lok Adalat under Section 22(C) of the Legal Services Authorities Act, 1987 (in short 'the 1987 Act'). He submits that the dispute would not amenable to waiver of the interest agreed between the parties while availing the facility of loan. The impugned order, under

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challenge, is without jurisdiction.

Learned counsel for the respondent submitted that the Lok Adalat as per the provisions of Section 22(C) of the 1987 Act has wide powers to settle any dispute including the dispute in hand as the amount was less than ₹1,00,00,000/- |(₹One crore). The society charged high interest. The loan amount of ₹2,31,000/- has burgeoned to ₹8 Lakhs (an odd amount). He does not dispute the passing of the order under Section 102 of the 1984 Act.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is a force and merit in the submissions of Mr. Sahu.

It would be apt to reproduce the provisions of Section 22(C) of the 1984 Act, which reads thus:-

"22C. 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 the 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.

(3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it—

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(a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their

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observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under subsection (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute."

The aforementioned Act has been pondered upon by Hon'ble the Supreme Court as well as by this Court in various judgments and it has been held that all the disputes cannot be amenable to its jurisdiction, particularly the nature, as noticed above. It has no jurisdiction to reduce the interest agreed between the parties owing to the contract. Deviation of the contract is not permissible by any Court, particularly when the objection qua the maintainability was raised in view of the order under Section 102 of the 1987 Act. The order, under challenge, in my view, is wholly preposterous, fallacious and perverse and the same is hereby set aside and the revision petition is allowed.

Before parting with the order, I intend to call the comments of the Chairman, Permanent Lok Adalat (Public Utility Services), Fatehabad, for exercising the jurisdiction or cognizance to entertain the petition with the relief of waiver of the interest in the loan account.

Let the comments of the concerned Officer be sent within a period of two weeks from the date of receipt of the certified copy of the order.

08.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned Yes/ No

Whether Reportable Yes/ No