

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved for Order on : 19.02.2020

Order Passed on :23/03/2020

W.P.(227) No. 622 of 2018

Branch Manager, Bank Of Baroda, Through : Its Branch Manager, Krishna Kanta Hawaladar, S/o. Shri C.R. Hawaladar, aged about 56 years, R/o. Near to Jhankar Cinema Jagdalpur, District Bastar, Chhattisgarh.

---- Petitioner

Versus

1. Permanent Lok Adalat (Public Utility), Bastar, Jagdalpur, Chhattisgarh.
2. G. Anant Rao, S/o. Shri G. Suryanarayana, aged about 38 years, Village -Brindrabada Semra, Tahsil -Jagdalpur, District Bastar, Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Ankit Singhal, Advocate
For Respondent No.2	: Mr. Rahul Tamaskar, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

23/03/2020

1. This petition has been brought challenging the order dated 31.01.2018, passed by the respondent No.1, in Case No.32 of 2015, directing the petitioner to pay compensation, damages and cost of proceeding to the respondent.
2. It is submitted by the counsel for the petitioner that the impugned order is arbitrary and illegal, in which the express provisions of

the Legal Services Authority Act, 1987 (In short the Act, 1987) were not followed. Section 22(B) of the Act, 1987 provides for establishment of the Permanent Lok Adalat for Public Utility Services. Section 22 (C) 4 provides that after completion of the pleadings, the Permanent Lok Adalat shall conduct conciliation proceeding between the parties to the application. Sub-Section (5) provides that permanent Lok Adalat shall conduct of conciliation proceeding under Sub-section (4) and assist the parties in their attempt to reach to an amicable settlement of the dispute and then Sub-section (7) provides that on the basis of outcome of conciliation proceeding, if Permanent Lok Adalat, is of opinion that there exist elements of settlement in proceedings, which may be acceptable to the parties, then it shall formulate the terms of possible settlement of the dispute and to give the parties concerned for their observations purpose, consideration and arriving at any agreement. When any agreement takes place between the disputed parties, then the permanent Lok Adalat shall pass an award accordingly. Sub-section (8) of the Section 22 (C) empowers the Permanent Lok Adalat to decide the dispute, when the parties fail to reach at an agreement as required under Sub-section (7).

3. It is submitted that the learned Permanent Lok Adalat did not take up any conciliation proceeding between the parties and it has directly decided the dispute by the impugned order. Relying on the order passed by this Court dated **24.01.2019, passed in W.P.**

(227) No. 265 of 2017, Branch Manager, Choramandalam Vs.

Smt. Manju Rathore, it is submitted that this Court has observed that Permanent Lok Adalat is bound to make compliance of the provisions under Section 22(C) (3) to (7) of the Act and without such compliance Permanent Lok Adalat has no authority to decide the dispute between the parties. Hence, the impugned order of respondent No.1 is unsustainable, which is liable to be set-aside.

4. Counsel for the respondent No.2 opposes the grounds raised in this petition and also the submissions made in this respect. It is submitted that the petitioner had not raised any of the grounds mentioned in this petition, before the Permanent Lok Adalat. The only grounds that was raised was of maintainability. Respondent has all the entitlement for relief that has been granted in his favour. Therefore, there is no substance in this petition, which may be dismissed.
5. In reply, it is submitted by the counsel for the petitioner that the award i.e. given by the Permanent Lok Adalat is without jurisdiction as the mandatory provisions of Section 22(C) of the Act, 1987 were not followed.
6. I have heard the learned counsel for the parties and perused the documents placed on record.
7. Respondent No.2 had filed a complaint under Section 22 (B) of the Act, 1987, that he purchased a tractor bearing registration No.C.G.-17-G-4313 and trolley No.C.G.17-G-4314 in auction

from the applicant at a price of Rs.4.00 lakhs. Possession of the tractor and trolley was given to the respondent by the applicant after receiving the price amount, however, the registration of the said tractor and trolley was not transferred in favour of the respondent No.1 despite making numerous correspondence. As the respondent No.1 was unable to use tractor and trolley in his favour, therefore, was compelled to file application praying for relief.

8. The applicant contested the case only on the point of allegations made by the respondent regarding non transfer of registration certificate in his favour, mentioning that because of unavoidable reasons, registration could not be transferred in favour of the respondent No.1, for which, the applicant is not responsible.
9. The application under Section 22 (B) was filed by the respondent on 25.08.2015. After number of adjournments, the applicant filed reply on 02.11.2015 and then the case was posted for compromise and evidence on both the parties. On 30.11.2015, on request made by the parties, the matter was sent to National Lok Adalat for compromise. The parties did not appear in the National Lok Adalat, therefore, no compromise took place. Thereafter, various dates were given for recording of evidence as well as for compromise. The evidence of both the sides were recorded and then after hearing the arguments, final order has been passed by the Permanent Lok Adalat, which is the impugned order.

10. Provision of Section 22 C (4) (5) (6) & (7) are relevant, which are as under :-

“22C. Cognizance of cases by Permanent Lok Adalat. –

(1) x x x x x x

(2) x x x x x x

(3) x x x x x x

(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 circumstance 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 observations and in case the parties reach at an agreement on the settlement or 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. x x x x x”

11. On perusal of these provisions, it is clear that as per Section 22C (4), it is the duty of the Permanent Lok Adalat itself to conduct conciliation proceeding between the parties. Further under Sub-section (5), the Permanent Lok Adalat has been mandated to assist the parties and make attempt to reach an amicable settlement of the dispute in an independent and impartial manner.
12. Also in Sub-section (7), Permanent Lok Adalat has authority to form an opinion on the basis that if there exist elements of settlement in such proceeding which may be acceptable to the parties then formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, then pass an award accordingly.
13. Provision of Section 22C (8) mentioned that only in case the parties fail to reach an agreement under Sub-section 7, the Permanent Lok Adalat shall proceed to decide the dispute between the parties. The provision Section 22C Sub-section (7) is connected with the provision in Sub-Section (4) (5) (6),

therefore, this provision have to be read together to understand the role of the Permanent Lok Adalat in conducting the conciliation proceeding, in an active manner by following the mandate of the law in that respect. Any permanent Loak Adalat can not directly jump to decide the dispute between the parties.

In case of ***Branch Manager, Choramandalam Vs. Smt. Manju Rathore (supra)***, the Permanent Lok Adalat had made efforts only to this extent that the case was sent to Lok Adalat on numerous occasions and only on that it was held that the effort of conciliation was made by the Permanent Lok Adalat. The learned Single Bench has held that there had been a total non-compliance of Section 22C (3 to 7) of the Act, 1987.

14. In this particular case, on perusal of the whole order sheet of the proceeding, it is found that the case was sent to National Lok Adalat only on one occasion, which can not be regarded as any act of conciliation done by the respondent No.1. The duty assigned to the Permanent Lok Adalat under Sub-section 4, 5 & 7 was never performed. Therefore, the Permanent Lok Adalat, respondent No.1 can not be said to have the jurisdiction to decide the dispute between the parties under Section 22C (8) of the Act, 1987, without compliance of the provisions under Section 22C (4), (5), & 7.
15. In view of the forgoing discussions, this petition is allowed. The impugned order dated 31.01.2018, in Case No.32 of 2015, passed by the respondent No.1, is set-aside. The case is

remanded back to Permanent Lok Adalat (Public Utility Services), Jagdalpur at Bastar with direction to take up the proceeding in accordance with law and also conclude the same as early as possible.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram