

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1689 of 2019

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M/s Ascend Telecom Infrastructure Private Ltd. through its authorized signatory Sanjay Kumar Son of S.C. Mishra a Company incorporated under the Companies Act, 1956 and having its registered offices at 37-2, Plot No.332, Mani Mansion, Defence Colony, Sainikpuri, Secunderabad and Circle Office at 4th Floor, Korara Enclave, Near Sai Corporate, Bailey Road, Patna (Bihar), Resident of 203, Majestic Hermitage, Near Alpna Market, New Patliputra Colony, P.S.- Patliputra, Patna.

... .. Petitioner/s

Versus

1. Ajay Kumar, Son of Late Ram Bharosa Singh Resident of East Chitrakut Nagar, Road No.12, P.O.- Digha, P.S.- Danapur, District- Patna
2. The Executive Officer, Danapur Nizamat Nagar Parishad, Danapur, District- Patna
3. Narendra Kumar S/o Late Ganga Dayal Singh Mohallah- East Chitrakut Nagar, Road No.-12, P.O.- Digha, P.S.- Danapur, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan, Adv.
Mr. Atul Shankar, Adv.
For the Respondent/s : Mr. Ajatshatru

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 08-09-2022

The present writ petition has been filed for setting aside the order dated 3.12.2018, passed by the learned Permanent Lok Adalat, Patna in P.L.A. Case No. 8/2018 whereby and whereunder the Respondent No. 2 has been directed to



remove the mobile tower installed on the house of the Respondent No. 3.

The short issue raised by the learned counsel for the petitioner is that firstly, the petitioner was not made a party to the said P.L.A. Case No. 8/2018, instituted at the instance of the Respondent no. 1 and secondly, the dispute in question does not fall within the purview of Section 22A of the Legal Services Authorities Act, 1987 (hereinafter referred to as the “Act, 1987”).

Another aspect of the matter, as argued by the Ld. Counsel for the petitioner is that since the petitioner was not made a party before the learned Court of Permanent Lok Adalat, Patna, there was no occasion for conduct of any conciliation proceedings, in between the parties, as such, on this ground as well, the order passed by the Permanent Lok Adalat, Patna, dated 3.12.2018 is perverse and fit to be set aside. At this juncture, it would be relevant to refer to Section 22A of the Act, 1987, which is reproduced hereinbelow:-

“22A. Definitions.—In this Chapter and



for the purposes of section 22 and 23,
unless the context otherwise requires,

—
(a) "Permanent Lok Adalat" means a
Permanent Lok Adalat established
under sub-section (1) of section 22B.

(b) "public utility service" means any

—

(i) transport service for the
carriage of passengers or goods
by air, road or water; or

(ii) postal, telegraph or
telephone service; or

(iii) supply of power, light or
water to the public by any
establishment; or

(iv) system of public
conservancy or sanitation; or

(v) service in hospital or
dispensary; or

(vi) insurance service,

and includes any service which the
Central Government or the State
Government, as the case may be,
may, in the public interest, by
notification, declare to be a public
utility service for the purposes of this
Chapter."



The learned counsel for the petitioner has also referred to a judgment, rendered by the Hon'ble Apex Court in the case of Canara Bank vs. G.S. Jayarama, reported in (2022) 7SCC 776, to contend that first of all, though the Permanent Lok Adalats are vested with adjudicatory functions under the Act, 1987, but the disputes, which can be adjudicated upon, should be pertaining to public utility services and secondly, conciliation proceedings under Section 22-C of the Act, 1987 are mandatory in nature, which cannot be bypassed by the Permanent Lok Adalats.

At this juncture, it may be pertinent to note that though notices were issued to the Respondents No. 1 to 3 by this Court and the same have also been validly served, but the said Respondents have failed to appear before this Court, hence this Court, vide order dated 12.7.2022, had proceeded ex parte qua the Respondents No. 1 to 3, being left with no other option.

I have heard the learned counsel for the



petitioner and I find that though the Permanent Lok Adalat has the jurisdiction to finally adjudicate the lis brought before it, however, it has to first resort to mandatory conciliation proceedings in between the parties and secondly, it can adjudicate disputes only in respect of public utility services, as defined in Section 22A(b) of the Act, 1987, however, this Court finds that as far as dispute regarding installation of a mobile tower is concerned, the same is not covered by the definition of public utility services, as stipulated under Section 22A(b) of the Act, 1987, hence, this Court is of the view that the Permanent Lok Adalat, Patna could not have adjudicated the lis in hand.

Another aspect of the matter is that since the mobile tower in question has been installed by the petitioner, no order could have been passed by the learned Court of Permanent Lok Adalat, Patna without hearing the petitioner, however, in the present case, apparently, the petitioner has not even been arrayed as a party in the complaint, filed by the Respondent No. 1, leading to



registration of the aforesaid PLA Case No. 8/2018, therefore, this Court finds that the aforesaid order dated 3.12.2018, passed by the Permanent Lok Adalat, Patna, is unsustainable in the eyes of law, having been passed behind the back of the petitioner.

Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the present writ petition stands allowed and the order dated 3.12.2018, passed by the Permanent Lok Adalat, Patna in PLA Case No. 8/2018, is set aside, however, liberty is granted to the Respondent No. 2 i.e. Executive Officer, Danapur Nizamat Nagar Parishad, Danapur, District-Patna to proceed afresh, in accordance with law, if so advised.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	9.9.2022
Transmission Date	NA

