

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.6712 Of 2021
(Through hybrid mode)**

Satyabrata Dhir

....

Petitioner

Mr. D.R. Bhokta, Advocate

-versus-

***Debendra Mohan Pattnaik and
another***

....

Opposite Parties

Mr. G. Mishra, Advocate

CORAM: JUSTICE ARINDAM SINHA

**Order
No.**

6.

**ORDER
16.03.2022**

1. Mr. Bhokta, learned advocate appears on behalf of petitioner and submits, impugned is award dated 16th November, 2019 made by Permanent Lok Adalat, Cuttack. He demonstrates from the order that his client stayed away from the Lok Adalat, did not participate in conciliation nor in the hearing and adjudication, resulting in impugned award. He submits, disputes and differences exist between the parties, his client requires adjudication of the disputes and therefore did not join for attempt at settlement. The award itself says that it is an adjudication on merits and that too ex parte against his client. He relies on **judgment dated 7th October, 2021** of the Supreme Court in **Estate Officer v. Colonel H.V. Mankotia (Retired)** in **Civil Appeal no.6223 of 2021**, in which there was clear declaration of law that the

Lok Adalat has no jurisdiction to enter into the merits of the case and decide the matter on merits, in case the settlement is not arrived at.

2. Mr. Mishra, learned advocate appears on behalf of opposite party no.1 and submits, his client is also aggrieved by the award inasmuch as the claim for interest was not allowed. He submits, under sub-section (8) in section 22C of Legal Services Authorities Act, 1987, the Permanent Lok Adalat is empowered to decide the dispute. He draws attention to certified copy of order dated 9th August, 2019, disclosed in his client's writ petition W.P.(C) no.32860 of 2020 (tagged) to show that terms of possible settlement were formulated by the Lok Adalat and thereafter the decision regarding the dispute, on merits. Mr. Bhokta respond, his client never participated in any proceeding before the Lok Adalat.

3. Section 22C provides, inter alia, once the Lok Adalat has been approached by a party, no party involved thereby shall invoke jurisdiction of any Court in the same district. It appears that none of the parties thereafter invoked jurisdiction of a Court. Sub-section (3) provides for notice and filing of statement, additional statement and reply sub-section (4) says, statement, additional statement and reply, if any, on having been filed to satisfaction of the Lok Adalat, it shall commence conciliation proceeding between the parties to the application.

4. In impugned order, inter alia following was said.

“The opp. parties have not filed written statement inspite of service of notice and subsequently the record was placed for conciliation and the O.Ps did not take any step. On 20.07.2019 learned counsel for the petitioner filed certain documents and on hearing him, the record was adjourned for formulation of Terms of Possible Settlement (in short, TPS). Objection was invited against the TPS. The applicant has signed on such TPS. The O.Ps. were noticed and the order dated 03.10.2019 reveals that the letter issued to the O.Ps. are delivered but the O.Ps. did not turn up to sign the TPS. They have also not filed objection to the TPS and hence at the time of final hearing, the petitioner is only heard.”

5. It is clear that for requirement of conciliation there was necessity of petitioner having filed additional statement and the other, applying party, reply, if any. It is therefore clear, following sub-sections (5) to (8) in section 22C empower the Lok Adalat to embark on conciliation proceedings by formulation of terms of possible settlement with consequence that on failure to arrive at the same, adjudication on formulation of terms of possible settlement. The terms to be formulated depend on variance of the statement with the additional statement to be filed by the parties. Terms formulated on basis of one party's statement only, cannot be said to be terms of

possible settlement.

6. In facts of this case the Lok Adalat could not have invoked its power under sub-section (8) in section 22,C to adjudicate, when petitioner had not participated in any proceeding before it. In the circumstances, impugned award is without jurisdiction. It is set aside and quashed.

7. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks

