

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8843 OF 2021

The Maharashtra State Electricity Distribution
Company Ltd. & Anr.

... Petitioners

Versus

Baburao Tatyarao Nikam

... Respondent

...
Mr. Avishkar S. Shelke, Advocate for the Petitioners
Mr. Pahilwan Gautam J., Advocate for Respondent
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 28th September, 2022

PER COURT :-

1. This petition takes exception to the judgment and award passed by Permanent Lok-Adalat, Aurangabad in Pre-Litigation Application Dispute No.68/2018.

2. According to the petitioners, the matter is decided in absence of petitioners. Without there being sufficient material on record, exorbitant compensation is awarded and before deciding the matter on merits, conciliation proceedings in terms of Sections 22-C, 3 & 4 of the Legal Services Authorities Act, 1987 (for short 'the said Act') have not taken place. In support of the above grounds, learned Advocate for petitioners has placed reliance on **Bar Council of**

India Vs. Union of India reported in **(2012) 8 SCC 243** and **Maharashtra State Electricity Distribution Company Limited Vs. Badrinath Pema Rathod** reported in **2022 (2) AIR Bom R 733**.

3. The learned Advocate for respondent/original claimant, on the other hand, supported the impugned judgment and award, contending that petitioners have chosen not to file written statement and/or contest the matter on merits, as per the impugned judgment and award. None represented opponents/petitioners even at the time of hearing and therefore, petitioners are not entitled to challenge judgment and award on merits.

4. I have given due consideration to the rival submissions of learned Advocates for respective parties. Perused the grounds raised in the writ petition and documents placed on record, including impugned judgment and award.

5. It is not in dispute that respondent/original claimant filed application under Section 22-C (1) of the said Act claiming that, due to short circuit in DP, there was sparking, due to which, sugarcane crop of respondent caught fire and entire sugarcane crop and drip irrigation system installed by respondent was burnt. The respondent therefore claimed compensation of Rs.6,20,000/-

6. Petitioners were called upon to respond to the claim. Petitioners failed to file reply/say. Thereafter, from time to time petitioners remained absent and even at the time of final hearing, petitioners remained absent.

7. The Lok-Adalat allowed the claim of respondent by awarding compensation of Rs.4,20,000/- to respondent along with 9% interest per annum, by taking into consideration the averments in the claim petition, documents filed by him and report of Electrical Inspector, wherein, it is mentioned that, there was 33/11 K.V. feeder in the field of respondent and sugarcane crop was damaged due to sparking. It is further stated that petitioners have committed breach of Rule 12, 19(2), 35(2), 48(1)(2), 58, 65, 69 and 70 of the Central Electricity Rules, 2010. Since oral evidence of respondent and Electrical Inspector has gone unchallenged, claim was allowed. Hence, the present petition.

8. In State Electricity Distribution Company Limited (Supra), learned Single Judge of this Court has observed;

"Section 22(C) determine the jurisdiction of the Permanent Lok Adalat and it adumbrate that the Permanent Lok Adalat shall exercise jurisdiction in respect of any matter relating to an offence, which is compoundable under any law. To that extent, at first blush, the exercise of jurisdiction of the Permanent Lok Adalat in the impugned order appear to be justified since the offence under the Electricity Act are compoundable. However, when the procedure to be adopted

by the Permanent Lok Adalat in determining the dispute before it is carefully perused, it is manifest that the exercise of powers by the Permanent Lok Adalat is in form of Pre-litigation, Conciliation and Settlement, and therefore, it is imperative for the Permanent Lok Adalat to make an endeavour to initiate conciliation proceedings before it assume the role of an adjudicating authority. The scheme contained in Chapter VI-A contemplate that the Permanent Lok Adalat shall conduct conciliation and assist the parties in their attempt to reach at an amicable settlement of the dispute in an independent and impartial manner.

The above direction in the award, is blemished on two counts; the Permanent Lok Adalat has failed to conduct conciliation proceedings, which was duty bound to conduct and it is only, if at the end of the conciliation, if an agreement is arrived at between the parties resulting into settlement of the dispute, it is within the powers of the Permanent Lok Adalat to pass an award. However, when the parties fail to reach at an agreement on attempting conciliation, the Permanent Lok Adalat shall proceed to decide the dispute, if the dispute does not relate to any offence."

9. Perusal of roznama maintained by Lok-Adalat shows that, at no point of time, conciliation proceedings were ever held before adjudicating the matter on merits.

10. In Bar Council of India (Supra), the Apex Court has held that;

"Chapter VI-A has been enacted to provide for an institutional mechanism, through the establishment of Permanent Lok Adalats for settlement of disputes concerning public utility service before the matter is brought to the court and in the event of failure to reach any settlement, empowering the

Permanent Lok Adalat to adjudicate such dispute if it does not relate to any offence.”

11. In the light of aforesaid ratio, Permanent Lok-Adalat ought to have conducted conciliation proceedings before entertaining application filed by respondent on merits.

12. Admittedly, petitioners have failed to contest the matter on merits. In these peculiar facts and taking into consideration the fact that petitioners have already deposited 50% of compensation amount directed by Permanent Lok-Adalat and the said amount is withdrawn by respondent, this Court is inclined to allow the petition.

13. In the result, writ petition is allowed and impugned judgment and award dated 09/04/2019 passed by Permanent Lok-Adalat, Aurangabad in Pre-Litigation Application Dispute No.68/2018 is hereby quashed and set aside.

14. The matter is remanded back to Permanent Lok-Adalat, which shall decide the application by giving an opportunity to the petitioners to file written statement and then, proceed to conduct conciliation in the matter.

15. In the event conciliation fails, then claim shall be decided on merits by giving opportunity to both the parties to lead evidence.

16. The amount withdrawn by respondent shall be taken into consideration at the time of conciliation and/or final decision of claim on merits.

17. The petitioners shall pay costs of Rs.25000/- to the Legal Aid Service Authority of District Court.

[NITIN B. SURYAWANSHI, J.]

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