

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

128

CWP-20450-2022(O&M)

Date of decision: 08.09.2022

Gurbachan Singh

... Petitioner

Vs.

Tarsem Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Namit Gautam, Advocate for the petitioner.

Ms. Bhavna Kapur, Advocate for respondent No.1.

VINOD S. BHARDWAJ, J. (ORAL)

Learned counsel appearing on behalf of the petitioner submits that a suit for declaration was filed by the respondent-Tarsem Singh seeking 1½ share in the 5 HP electric motor installed in the fields. The said suit of the respondent was dismissed by the Civil Judge (Senior Division) Kapurthala, vide judgment dated 17.10.2011.

Aggrieved thereof, the respondent preferred an appeal before the District Judge, Kapurthala. The said appeal was dismissed for non-prosecution and an application for restoration of the appeal was moved on behalf of the respondent. During the pendency of the said application seeking restoration, statement of respondent-Tarsem Singh was recorded by the Additional District Judge, Kapurthala on 14.12.2012, which reads thus:-

“Stated that the parties have entered into written compromise. A photocopy of compromise is marked 'A'. I, do not want to continue with a present appeal, hence it may be consigned to records. My case may be remanded to Lok Adalat.”

He submits that consequent to the said order, the matter was taken up by the Lok Adalat on 15.12.2012, when following statement of Tarsem Singh was recorded by the Lok Adalat:-

“Stated that my statement is recorded in Lok Adalat. A compromise has arrived at between the parties, which is mark 'A'. Accordingly, I do not want to continue the present Civil Appeal. I have no objection, if the present case is consigned to record;”

He submits that an order of even date was passed by the Presiding Officer in the Mega Lok Adalat, Kapurthala, the relevant extract whereof reads thus:-

“In view the statement of the Ld. Counsel for the appellant and statement of the appellant made on 14.12.2012, present appeal stands dismissed as withdrawn being compromised. The parties shall remain bound by the compromise deed mark-A and their statements dated 14.10.2012. File be consigned to the record room.”

(emphasis supplied)

Learned counsel contends that the matter before the Lok Adalat was only in relation to the withdrawal of the appeal being sought by respondent No.1 and that a direction has been issued by the Presiding Officer of the Mega Lok Adalat mandating the parties to remain bound by the compromise, even though was no such statement or acceptance

of any such compromise got recorded by the petitioner-defendant in the civil suit or during appeal.

He contends that the jurisdiction of Lok Adalat is confined to the settlement amongst the parties and that it cannot take upon itself the job of adjudicating a matter while exercising such powers and that too in the absence of any agreement amongst the parties.

Learned counsel appearing on behalf of the respondent, however, contends that the compromise was duly affixed by her along with the application and that any subsequent dispute being raised by the petitioner (defendant-respondent in the civil proceedings) cannot be the basis to not give effect to a settlement that was voluntarily agreed between the parties. She however could not dispute the fact that no statement of the petitioners was recorded by the Lok Adalat and only the statement of respondent was recorded before disposing the matter.

Before proceeding further in the matter it would be necessary to refer to the precedents as well as the statutory provisions governing the powers of the Lok Adalat.

A reference is required to be made to the statutory provision incorporated under Section 19 (5) of the Legal Services Authority Act, 1987 which is extracted as under:-

“19. Organisation of Lok Adalats.—

xxx xxx xxx

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

(i) any case pending before; or

(ii) any matter which is falling within the jurisdiction of, and is not brought before, any Court for which the

Lok Adalat is organised: Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.”

It would also be relevant to refer to the precedent judgment of the Hon'ble Supreme Court in a case bearing **Civil Appeal No.522 of 2008, decided on 18.01.2008 titled as “State of Punjab and another Vs. Jalour Singh and others.”** The relevant extract of the same is reproduced below:-

“8. It is evident from the said provisions that Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance, and put its seal of confirmation by making an award in terms of the compromise or settlement. When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the court from which the reference was received, for disposal in accordance with law. No Lok Adalat has the power to "hear" parties to adjudicate cases as a court does. It discusses the subject matter with the parties and persuades them to arrive at a just settlement. In their conciliatory role, the Lok Adalats are guided by principles of justice, equity, fair play. When the LSA Act refers to 'determination' by the Lok Adalat and 'award' by the Lok Adalat, the said Act does not contemplate nor require an adjudicatory judicial determination, but a non-adjudicatory determination based on a compromise or settlement, arrived at by the parties, with guidance and assistance from the Lok Adalat. The 'award' of the Lok Adalat does not

mean any independent verdict or opinion arrived at by any decision making process. The making of the award is merely an administrative act of incorporating the terms of settlement or compromise agreed by parties in the presence of the Lok Adalat, in the form of an executable order under the signature and seal of the Lok Adalat.

9. But we find that many sitting or retired Judges, while participating in Lok Adalats as members, tend to conduct Lok Adalats like courts, by hearing parties, and imposing their views as to what is just and equitable, on the parties. Sometimes they get carried away and proceed to pass orders on merits, as in this case, even though there is no consensus or settlement. Such acts, instead of fostering alternative dispute resolution through Lok Adalats, will drive the litigants away from Lok Adalats. Lok Adalats should resist their temptation to play the part of Judges and constantly strive to function as conciliators. The endeavour and effort of the Lok Adalats should be to guide and persuade the parties, with reference to principles of justice, equity and fair play to compromise and settle the dispute by explaining the pros and cons, strength and weaknesses, advantages and disadvantages of their respective claims.

10. The order of the Lok Adalat in this case (extracted above), shows that it assumed a judicial role, heard parties, ignored the absence of consensus, and increased the compensation to an extent it considered just and reasonable, by a reasoned order which is adjudicatory in nature. It arrogated to itself the appellate powers of the High Court and 'allowed' the appeal and 'directed' the respondents in the appeal to pay the enhanced compensation of Rs.62,200/- within two months. The order of the Lok

Adalat was not passed by consent of parties or in pursuance of any compromise or settlement between the parties, is evident from its observation that "if the parties object to the proposed order they may move the High Court within two months for disposal of the appeal on merits according to law". Such an order is not an award of the Lok Adalat. Being contrary to law and beyond the power and jurisdiction of the Lok Adalat, it is void in the eye of law. Such orders which "impose" the views of the Lok Adalats on the parties, whatever be the good intention behind them, bring a bad name to Lok Adalats and legal services.

12. It is true that where an award is made by Lok Adalat in terms of a settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits."

Having heard the learned counsel appearing on behalf of the respective parties and having gone through the record and the statutory provision as well as the precedent judgment have been considered, the same stipulate that jurisdiction of the Lok Adalat has to be exercised only in the event of compromise/settlement between the parties to dispute in respect of a case pending before it. The Lok Adalat can only initiate steps to persuade the parties to arrive at a settlement, however, while exercising its jurisdiction as Lok Adalat, it does not decide the lis sans the voluntary compromise/settlement amongst the parties.

A further reference is required to be made to Section 20 of the Legal Services Authority Act, 1987 which reads thus:-

“20. Cognizance of cases by Lok Adalats.—

(1) Where in any case referred to in clause (i) of subsection (5) of section 19,—

(i)(a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the Court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the Court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-

section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination: Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a court.

(7) Where the record of the case is returned under subsection (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section

(1).”

(Emphasis supplied)

A perusal of Section 20 stipulates that the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties. Furthermore, when there is no compromise amongst the parties, the award cannot be made by the Lok Adalat and the matter has to be sent before the appropriate/regular Court.

It is undisputed that the application for withdrawal of the appeal, which had already been dismissed for non-prosecution, had been moved on behalf of the respondent itself. There was no representation on behalf of the petitioner at the stage when the initial statement of the respondent was recorded or even when the matter was put up before the Mega Lok Adalat. The order passed by the Presiding Officer of the Mega Lok Adalat directing the parties to remain bound by the compromise is *de-hors* non-acceptance of such compromise by the petitioner and without ensuring that there is an acceptance, acknowledgement or admission of due execution of such compromise by the petitioner (defendants-respondents in the civil suit). Such a direction mandating the parties to remain bound by the compromise could not have been issued. Invariably, the order amounts to passing of a decree in terms of the compromise without the parties having agreed to the same.

Consequently, the impugned order dated 15.12.2012 passed by the Presiding Officer, Mega Lok Adalat is set aside. The proceedings are restored to their original number. The parties shall appear before the Additional District Judge, Kapurthala on or before 10.10.2022. The appropriate proceedings in accordance with law shall thereafter be undertaken by the Competent Court.

Petition is allowed.

08.09.2022

(VINOD S. BHARDWAJ)
JUDGE

pooja saini

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No