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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP-9479-2017 (O&M).
Decided on: August 23, 2022.

Dakshini Haryana Bijli Vitran Nigam and another

.. Petitioners

VERSUS

Anil Kumar and others

.. Respondents

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

PRESENT Mr. Vishal Garg, Advocate,
for the petitioners.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition raises a challenge to the order dated 21.11.2016 (Annexure P-5) passed by the Additional District Judge, Sirsa, in case No.8-CS/2016, titled as “Anil Kumar Vs. Dakshini Haryana Bijli Vitran Nigam and others”, while exercising his jurisdiction in the Lok Adalat.

2. Learned counsel contends that a suit for declaration had been filed by the respondent raising a challenge to the joint checking report memo as well as the assessment undertaken by the authorities being without

jurisdiction and in violation of the mandatory provisions of law along with consequential relief for mandatory injunction directing the petitioner (defendant therein) to refund the amount of Rs.3,12,935/- along with interest.

3. There has been no representation on behalf of contesting respondent No.1 despite service. He was ordered to be proceeded against ex parte vide order dated 12.01.2018.

4. The present case is thus being decided on merits.

5. Learned counsel appearing on behalf of the petitioner contends that the matter was taken up before the Daily Lok Adalat wherein reliance was placed by the plaintiff on the sale circular sale D-32/2016, however, the same was disputed by the counsel representing the petitioner - Nigam. He submits that the following order was passed by the Additional District Judge, Sirsa on 21.11.2016 by exercising his powers as a Lok Adalat:-

"Inadvertently, in the previous order the date of hearing has been mentioned as 03.12.2016 instead of 21.11.2016. Mistake is rectified. File taken up on the joint request of counsel for the parties in Daily Lok Adalat. Sandeep Kumar, SDO, Operation Sub Division has made a statement to the effect that a case was registered against plaintiff for theft of electric energy. Vide memo No.T-13/2014/23 of 2013 dated 29.05.2014, a notice for recovery of Rs.2,72,935/- has been issued and vide memo No.T-13 of 2014/24 dated 29.05.2014 a notice has been issued for compounding charges. He further added that the plaintiff has deposited an amount of Rs.2,72,935 and Rs.40,000/- as loss to Nigam and compounding charges respectively on

02.06.2014 and now nothing is due towards plaintiff. However, the case of plaintiff does not fall under sale circular No.D/32/2016.

Plaintiff Anil Kumar has made a statement that he has already deposited the entire amount with department with regard to memos dated 29.05.2014. He further made a statement to the effect that he has deposited more than 50% of Loss to Nigam and the amount so deposited above 50% to loss of Nigam may be adjusted in future bills and he withdraws the present suit and the same may be dismissed as withdrawn.

Heard. In view of the statement of plaintiff recorded separately, the present suit is hereby dismissed as withdrawn in Daily Lok Adalat. The respondents are directed to adjust the amount more than 50% of loss to Nigam in the subsequent bills of the plaintiff. File be consigned to the record room.

(Emphasis supplied)

6. Learned counsel appearing on behalf of the petitioner contends that the jurisdiction of the Lok Adalat is only to dispose of the matters in the light of settlement amongst the parties and after recording consent of the respective parties. It is contended that counsel/official present on behalf of the petitioner – Nigam had not consented to the directions that had been issued by the Additional District Judge, Sirsa. Resultantly, petitioner has no objection in so far as the withdrawal of the suit by the respondent - plaintiff is concerned, however, the consequent direction sans any consent by the petitioner was not proper and it amounts to decreeing the suit despite any consent.

7. A reference is 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.—

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(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.”

8. 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.”

9. Having heard the learned counsel appearing on behalf of the petitioner and taking into consideration the statutory provision as well as the precedent judgment which stipulates that jurisdiction of the Lok Adalat is to be exercised in the event of compromise/settlement between the parties to dispute in respect of a case pending before it. The Lok Adalat can 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.

10. 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 sub-section (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 advice the parties to seek remedy in a court.

(7) Where the record of the case if returned under sub-section (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)

11. 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.

12. The operative part of the impugned order shows that a statement had been made only by the respondent/plaintiff that he had deposited more than 50% of Loss to the Nigam and that the said amount deposited above 50% of the Loss may be adjusted in future bills and that he wants to withdraw the said suit. There is no consent given on behalf of the counsel representing the petitioner-distribution licensee and he has not

agreed to the said offer. In the absence of a settlement or compromise to the above recorded offer of the respondent/plaintiff, a direction issued by the Lok Adalat to the distribution licensee to adjust the amount in the subsequent bills amounts to adjudication on the issue and decreeing the suit without the consent of the petitioner. The same was apparently a transgression beyond the scope of authority vested in the Lok Adalat.

13. In view of the aforesaid statutory provision, I am of the opinion that there is merit in the submission on the part of the learned counsel for the petitioner. The jurisdiction of the Daily Lok Adalat is restricted to the settlement arrived at amongst the parties and while exercising its authority – powers as a Lok Adalat under the Legal Services Authority Act, 1987, the Lok Adalat determines the lis with the settlement/compromise arrived at between the parties.

14. Resultantly, the present petition is allowed. The order dated 21.11.2016 (Annexure P-5), passed by the Additional District Judge, Sirsa, in the Daily Lok Adalat, is set aside. The suit is restored at its original number.

15. The petitioner shall appear before the Court concerned within a period of six weeks from receipt of certified copy of the order. Further action in accordance with law shall be taken thereupon by the concerned Court.

August 23, 2022.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No