

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

237

**CWP-25596-2019 (O&M)
Date of Decision: 14.12.2022**

BPTP LTD

... Petitioner

VERSUS

PERMANENT LOK ADALAT AND ORS

... Respondents

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

Present: Mr. Adarsh Jain, Advocate
for the petitioner.

None for respondents.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for issuance of a writ in the nature of Certiorari raising a challenge to the order dated 01.05.2019 (Annexure P-1) and 05.08.2019 (Annexure P-2) passed by the Permanent Lok Adalat (Public Utility Services), Faridabad while directing the Director of the petitioner-Company to appear/participate in the conciliation proceedings instead of the authorised signatory.

Notice was ordered to be issued to the respondents, but the respondents no.2 and 3-Applicants chose not to appear despite service. They were ordered to be proceeded against ex-parte vide order dated 05.11.2019. In the interest of justice and to ensure their presence, the matter was taken up on various occasions thereafter, however, there has been no representation on behalf of the respondents.

Learned counsel for the petitioner has argued that the petitioner is a developer and has developed a residential colony named as Park Lands in Sector 76, Faridabad. A plot buyer agreement dated 23.12.2010 by the petitioner in favour of the private respondents-applicants in respect of a plot No.41, Block Y-1, measuring 250 Sq. Yards was executed. An application/complaint under Section 22-C of the Legal Services Authority Act, 1987 was instituted by the respondents No.2 and 3 before the Permanent Lok Adalat (Public Utility Services), Faridabad alleging that the petitioner has collected excess amount; and further for issuance of directions to refund the same, execute the sale/conveyance deed and further to hand over possession alongwith interest and/or damages etc. During the conciliation proceedings initiated before the Permanent Lok Adalat, an order was passed on 01.05.2019 directing that the Director of the petitioner company shall appear on the date fixed to participate in the conciliation proceedings. Thereafter, on account of non-appearance and non-compliance, the Director was burdened with costs as well.

The petitioner came before this Court pointing out that authorized representative of the petitioner-Company shall appear in the proceedings before the Permanent Lok Adalat and that the petitioner-Company shall be bound by any such conciliation as may have been so arrived at by the authorized representative.

The case was taken up on 12.09.2019 by this Court and the following order was passed:

“Counsel seeks a short accommodation to file a specific affidavit of the Director of the petitioner-company in support of the contention raised during the course of hearing that in the eventuality of the authorized representative and Attorney Holder

namely Jai Shankar entering into conciliation proceedings and thereafter a settlement with the opposite party in the light of the terms of settlement framed by the Permanent Lok Adalat (Public Utility Services), Faridabad in the proceedings dated 1.5.2019, the Director would be bound by such settlement and at no stage and before any forum raise any kind of objection thereto.”

In compliance to the aforesaid order, the petitioner filed an affidavit dated 30.09.2019 of Sudhanshu Tripathi son of V.N. Tripathi, Whole Time Director of BPTP Limited. The relevant extract of the same reads thus:

“2. That the Petitioner Company has authorized its representative and signatory Sh. Jay Shankar, Assistant General Manager (Legal) to pursue all legal proceedings. He has been authorized to appear in the present complaint, file written statement, and participate in conciliation proceedings and execute written settlement between the parties.

3. He is fully competent and authorized and has jurisdiction to settle all the disputes which have been raised in the present complaint and in case he enters into conciliation proceedings and executes written settlement with opposite party, the Company and the deponent shall be bound by such settlement executed between the parties and at no stage or before any forum shall raise any objections that he was not authorized to participate in the conciliation proceedings or to execute the written settlement.”

Learned counsel appearing on behalf of the petitioner contends that the object of the conciliation proceedings is only to arrive at an amicable settlement and that the personal appearance of the Director of the petitioner Company is not likely to advance any special interest. The very fact that the authorized representative, who is fully empowered to enter into a settlement, shall remain present and the same would serve the object of Section 22-C (4 to 7) of the Legal Services Authorities Act, 1987.

Taking into consideration the circumstances noticed above as well as the affidavit filed by the petitioner coupled with the fact that the provisions of The Legal Services Authorities Act, 1987 do not necessitate the presence of the Directors of a juristic entity and that any authorized person on behalf of such juristic entity may appear and participate in the conciliation/adjudication proceedings on a valid authorization, I do not find any objectivity or rationality in directing the personal presence of the Director of the petitioner company on the date fixed before the Permanent Lok Adalat (Public Utility Services), Faridabad to participate in the conciliation proceedings.

In view of the above, the impugned orders are set aside to the extent whereby the Director of the petitioner company namely BPTP Ltd. has been ordered to appear in person to participate in the conciliation proceedings. The petitioner shall, however, remain represented by an authorized signatory, who will be fully empowered to enter into and sign the conciliation proceedings/settlement and the petitioner company shall remain bound by any such settlement entered into on behalf of the petitioner company.

The present petition is accordingly disposed of in terms as aforesaid.

14.12.2022.
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No