05.07.2023
Item No.12
gd/ssd

FMA/1401/2022
IA NO: CAN/1/2023
PUNJAB NATIONAL BANK AND ANR.
VS
BIRAJ BHATTACHARJEE

Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury
..for the Appellants.

Mr. Gautam Chakraborty
..for the Respondent No.1.

1. In this intra court appeal by the Punjab National Bank/respondent in WPA 19714 of 2022 dated 31st October, 2022 the appellant bank is aggrieved by the observations made by the learned writ court stating that the further claim of the appellant bank claiming a sum of Rs.8,60,000/- approximately cannot be accepted.

2. The learned writ court came to such a conclusion taking note of the fact that the dispute between the parties was referred to the Lok Adalat and the appellant bank had agreed to receive Rs.3.05 lakh as full and final settlement of the claim made by the bank against the writ petitioner and an award came to be passed by the Lok Adalat in November, 2021 and after such an award now the appellant bank has freezed the bank account of the respondent/writ petitioner and has also not issued No Due Certificate.

3. In terms of Section 21(1) of the Legal Services Authorities Act, 1987 every award of the Lok Adalat shall be deemed to be a decree of civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of Section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870. In terms of sub-section (5) of Section 20 of the same Act where no award is made by the Lok Adalat on the ground that no compromise or settlement 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) of Section 20 for disposal in accordance with law.

4. It is the submission of the learned advocate for the appellant bank that the Lok Adalat may be directed to send the record of the case back to the civil court as if on the ground that no settlement has been arrived at since the appellant bank has an additional claim against the respondent/writ petitioner.

5. In our view, the award of the Lok Adalat can be set aside only when it is established that the award was obtained by fraud or misrepresentation. Admittedly, it is not the case of the appellant bank that any fraud or misrepresentation was made by the respondent/writ petitioner. Therefore, the question of

sending back the case file to the civil court could not arise. However, if the fact remains that the appellant bank is entitled to make a further claim, the appellant bank should not be left remediless. However, in the meantime, the appellant bank cannot get over the award passed by the learned writ court and refuse to defreeze the bank account or refuse to issue a No Due Certificate.

6. The learned advocate appearing for the appellant bank submitted that as of now the bank account of the respondent/writ petitioner has been defreezed.

7. However, it is seen that No Due Certificate has not been issued till date.

8. In the light of the above, the appeal stands disposed of by directing the appellant bank to issue a No Due Certificate without prejudice to the appellant bank to make the further claim as stated by them in accordance with law before the appropriate forum and in such event it will be well open to the respondent/writ petitioner to raise all the defences available under law as well as on facts and also to contend that the award passed by the Lok Adalat is final and binding.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)