

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-7350-2019
Date of Decision: 22.11.2023

METAL TECH MOTORS PVT. LTD.

... Petitioner

VERSUS

HARI RAM SHARMA AND OTHERS

... Respondents

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

Present: Mr. Navneet Kumar, Advocate for
Mr. D.S. Matya, Advocate for the petitioner.

Mr. Kanwar Abhay Singh, Advocate
for respondent No.1.

Mr. Punit Jain, Advocate for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the Award dated 10.07.2017
(Annexure P-1) passed by the respondent No.3 vide which the petitioner was
directed to release the vehicle of respondent No.1 within a period of 15 days.

The petitioner company has approached this Court challenging the
Award dated 10.07.2017 passed by the Permanent Lok Adalat (Public Utility
Services), Gurugram which is alleged to have been passed without ensuring
service upon the petitioner and despite no order of proceeding *ex-parte* against
the petitioner. Even the conciliation proceedings stipulated under 22-C (4) to
(7) of the Legal Services Authorities Act, 1987 had not been initiated.

It is submitted that the respondent No.1 had approached the
workshop of the petitioner on 22.09.2016 for repairs of his medium goods

carrying vehicle bearing registration No.HR-55W-9756. The payable amount for above repairs was Rs.9,893/- which was duly paid by respondent No.1 and the vehicle in question was taken from the workshop of the petitioner by the respondent. However, on 01.10.2016, the respondent No.1 filed an application under 22-C of the Legal Services Authorities Act, 1987 claiming that the petitioner be directed to release the vehicle of respondent No.1 within a period of 15 days. It is contended that the respondent No.1 had sold the above mentioned vehicle to one Majid resident of Uttar Pradesh and that the application under 22-C of the Legal Services Authorities Act, 1987 petition was filed by the respondent No.1 to cause a wrongful loss to the petitioner. It is averred that the notice of the application was issued wherein a report was received that the service of the notice had been effected on one Gurpreet. The abovesaid report is neither authenticated nor stamped on behalf of the petitioner company and there is no report as to the status and relationship of Gurpreet Singh, the recipient of the abovesaid notice vis-a-vis the petitioner. Hence, the said service of summons cannot be deemed as a valid service as per law.

Relying on the above said report, the Permanent Lok Adalat (Public Utility Services), Gurugram proceeded further in the matter and passed the impugned Award without even passing a formal order for proceeding *ex parte* against the petitioner. It was directed in the said Award that the vehicle in question be released in favour of the petitioner within a period of 15 days. Aggrieved thereof, the present petition has been filed.

On notice, respondent No.1 appeared and filed his written statement denying the averments contained therein and averring that while issuing invoice-cum-challan the engine number as well as the chassis number

were wrongly mentioned. Based on the abovesaid wrong engine number and chassis number, the temporary Registration Certificate dated 23.10.2015 was issued by the petitioner in favour of respondent No.1. The sales certificate and Form No.22-A were also issued in favour of the respondent No.1-applicant on the basis of the wrong engine number and chassis number, which led to issuance of a Registration Certificate dated 05.11.2015 on the basis of mis-description of engine and chassis numbers. The correct numbers of the engine and chassis of the vehicle purchased by the petitioner were mentioned in the invoice-cum-challan certificate issued in favour of one Rajendar Kumar, who had also purchased a similar vehicle from the petitioner on 14.11.2015. The abovesaid mistake came to the notice of respondent No.1 in the month of July 2016 and he immediately informed about the same to the insurance company. In the meanwhile, the vehicle in possession of the respondent No.1 met with an accident on 05.07.2016 and he approached the workshop of the petitioner for repair of the vehicle, since the same was fully insured by respondent No.2. The vehicle in question has since then been in the custody of the petitioner herein. As the same was not released despite payment, the respondent No.1 approached the Permanent Lok Adalat (Public Utility Services), Gurugram and the impugned Award was passed since the petitioner failed to put in appearance in the pending proceedings despite service.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

Even though learned counsel for respondent No.1 has vehemently argued that the service had been effected, however, the vernacular of Annexure

P-4 has been perused. The service effected on Gurpreet Singh is stamped as "Cholamandam MS General Insurance Company Ltd." The petitioner herein is Metal Tech Motors Pvt. Ltd. The abovesaid service on Gurpreet Singh can at best be read as a service against respondent No.2 and cannot be construed as service against the petitioner herein, who was respondent No.1 in the proceedings before the Permanent Lok Adalat (Public Utility Services), Gurugram.

A perusal of the impugned Award neither reflects the effecting of service upon respondent No.1 i.e. the petitioner herein, nor has any order proceedings *ex parte* against the petitioner been passed.

Further, in view of the law laid down by the Hon'ble Supreme Court in the matter of "Canara Bank Vs. G.S. Jayarama" reported as (2022) 7 SCC 776, the conciliation proceedings are required to be initiated before adjudication of a matter under Section 22-C (8) of the Legal Services Authorities Act, 1987 and terms of conciliation were required to be formulated and to be sent to the respective parties, in case any party is not appearing before the Permanent Lok Adalat. The said procedure has been held mandatory by the Hon'ble Supreme Court. Seemingly, on all the aforesaid counts, the proceedings undertaken by the Permanent Lok Adalat (Public Utility Services), Gurugram suffer non-compliance of the mandatory provisions.

Without going further into the controversy arising before this Court, lest it may affect respective merits of the parties, and noticing the aforesaid fundamental defect in the Award passed, which would go to the root of the matter, the present petition deserves to be allowed.

The Award dated 10.07.2017 passed in Application No.2865 of 2016 titled as 'Hari Ram Sharma Vs. Metal Tech Motors Pvt. Ltd. and another' is accordingly set aside. Parties are directed to appear before the Permanent Lok Adalat (Public Utility Services), Gurugram on 13.12.2023. The petitioner herein shall also ensure its appearance in the said proceeding before the Permanent Lok Adalat (Public Utility Services), Gurugram. Further proceedings shall thereafter be undertaken by the Permanent Lok Adalat (Public Utility Services), Gurugram as per law.

Considering that the issue pertains to the year 2016 and already a period of nearly seven years has elapsed since then, it is expected that the Permanent Lok Adalat (Public Utility Services), Gurugram shall conduct expeditious proceedings and pass a final Award expeditiously and after granting opportunity of hearing to the respective parties.

Petition stands allowed accordingly.

NOVEMBER 22, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No