201 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23999-2017
Date of decision : 28.02.2023

Deputy Commissioner-cum-District Collector, U.T.Chandigarh and another

...Petitioners

Vs.

Permanent Lok Adalat for Public Utility Services and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: None for the petitioners.

Mr. Vipin Kumar, Advocate
for respondent No.2.

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MANOJ BAJAJ, J.

Petitioners have filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari to challenge the award dated 26.07.2017 (Annexure P-3) passed by respondent No.1/Permanent Lok Adalat (Public Utility Services) Chandigarh, whereby refund of an amount of Rs.39,000/- along with interest @ 6% per annum and Rs.10,000/- towards litigation expenses has been awarded in favour of respondent No.2.

The facts in brief leading to the petition are that wife of respondent No.2 purchased share in House No.636, Sector-20-A, Chandigarh by way of sale deed dated 11.07.2014 and had affixed the stamp duty of Rs.78,000/-, but later on buyer moved an application dated 14.07.2014 through her GPA before the Sub Registrar, U.T.Chandigarh for refund of Rs.39,000/- as she had affixed more than the required stamp duty. The Sub Registrar, U.T.Chandigarh vide communication dated 05.08.2014 expressed lack of power to refund the amount and asked the applicant to approach Collector, U.T.Chandigarh, whereupon the petitioner again submitted a request before Collector on 21.07.2014 (Annexure A-4). The said request was followed by representations to the Deputy Commissioner as well as Finance Secretary, U.T.Chandigarh dated 04.01.2015, 08.10.2015 and 14.06.2016 (Annexures A-5 to A-7, respectively) and finally the respondent No.2 sent a legal notice dated 20.08.2016 (Annexure A-8) again requesting the authorities to refund the excess payment of stamp duty deposited by her towards registration of the sale deed. Since the requests were not addressed, therefore, she brought an application dated 17.04.2017 under Section 22-C Legal Services Authority, 1987 before the Permanent Lok Adalat (Public Utility Service), Chandigarh seeking settlement of the dispute. In response to the said petition, reply on behalf of the petitioner was filed, whereupon respondent No.1 while considering the claim of respondent No.2 proceeded to accept her claim vide impugned order dated 26.07.2017. Hence this writ petition.

Today, Mr. Vikas Chatrath learned counsel appeared and stated that he is no more counsel for the petitioner in this case. However, no one else has appeared on behalf of the petitioner to assist the Court.

At this stage, learned counsel for respondent No.2 has argued that respondent No.2, who is a senior citizen is being harassed unnecessarily and even her justifiable claim for refund of Rs.39,000/- was never addressed by the petitioners, and it compelled the respondent No.2 to approach the Permanent Lok Adalat (Public Utility Services), Chandigarh for redressal of her grievance and upon examining the pleadings of the parties, refund of Rs.39,000/- along with interest as well litigation expenses of Rs.10,000/- was awarded in her favour. He submits that the impugned award is based upon correct appreciation of material on record, therefore, no interference is warranted by exercise of writ jurisdiction under Article 226 Constitution of India. He prays that the writ petition be dismissed.

Upon hearing learned counsel for the respondent and considering the pleadings of the parties and material on record, this Court finds that the writ petition is founded on the ground that against the communication dated 05.08.2014 (Annexure A-3), whereby the Sub Registrar, Chandigarh had asked the respondent to approach the Collector, U.T.Chandigarh for her claim of refund, an appeal ought to have been filed, instead of approaching the Permanent Lok Adalat (Public Utility Services), Chandigarh as the said authority constituted under Legal Services Authority, 1987 has no jurisdiction to entertain the application made by respondent No.2. Apart from this, it is also pleaded in the writ petition that the power of revenue authority to refund, penalty or excess due in certain cases as contemplated under Section 45 Indian Stamp Act, 1899 would not cover the deposit of excess stamp duty, even if, it is deposited by mistake.

Further, a perusal of the written statement filed by the petitioners before the Permanent Lok Adalat shows that the petitioners have not raised any objection relating to the jurisdiction of Permanent Lok Adalat (Public Utility Services), Chandigarh to entertain the grievance of the respondent No.2 contained in para 3 of the application, wherein it is highlighted that the applicant deposited the stamp duty @Rs.78,000/- with the Treasury at her own level without taking opinion and certificate from the Collector.

Thus, it is clear that the respondents have unjustifiably kept the claim of respondent No.2 for refund of excess stamp duty pending and the ground that the respondent No.2 ought to have availed the remedy of appeal before the Home Secretary, Chandigarh Administration, who is exercising the power of Chief Revenue Controlling Authority is without any merit, as claim of the respondent No.2 for refund was never adjudicated or rejected on merits.

Apart from it, while deciding the application of respondent No.2 before the Permanent Lok Adalat (Public Utility Services), Chandigarh no specific objection regarding lack of jurisdiction was raised, which is being raised only before the writ court, therefore, at this stage this Court is not inclined to entertain the same because the petitioner by its act and conduct acquiesced the jurisdiction of Permanent Lok Adalat (Public Utility Services), Chandigarh.

Resultantly, this Court has no hesitation in holding that the writ petition is without any merit much less with a valid cause of action, therefore, the same is dismissed with costs of Rs.20,000/- to be paid to the respondent No.2.

Dismissed.

(MANOJ BAJAJ)
JUDGE

28.02.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No