

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-9994-2018 (O&M).
Date of Decision: 10.10.2023.

PUDA BATHINDA AND ANOTHER

...Petitioners

Versus

DEV RAJ AND ANOTHER

...Respondents

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

Present: Mr. R.S. Khosla, Sr. Advocate, with
Ms. Shreya Singh, Advocate, for the petitioners.

Mr. Vishal Aggarwal, Advocate, for respondent No.1.

VINOD S. BHARDWAJ. J (ORAL)

Challenge in the present petition is to the order dated 20.12.2017 (Annexure P-5) passed by the Permanent Lok Adalat (Public Utility Services), Bathinda, whereby the application No.702 of 2015 instituted by the respondent No.1-applicant was allowed and the petitioner has been directed to allot a plot measuring 10 marlas to the respondent No.1-applicant within a period of 07 days along with cost of Rs.5,000/-.

Learned Senior counsel appearing on behalf of the petitioner submits that the respondent No.1-applicant along with his three brothers were owners in possession of land measuring 400 sq. yards each comprising in khasra No.3728 situated at Bathinda having purchased the same vide registered sale deed dated 28.10.1963 total measuring 1200 sq. yards. The said land was acquired by the State of Punjab for setting up of Urban Estate in Bathinda. As per the rehabilitation and resettlement policy, an oustee was entitled for allotment of a plot in lieu of the land acquired. The entitlement of the respondent No.1- applicant and his brothers – co-sharers for the entire land came out to be 10 marlas. Accordingly, the respondent No.1-applicant was informed vide letter No.20203 dated 02.06.1975 for completion of the requisite formalities so that the case of the respondent for allotment of a 10 marla plot could be considered. Another reminder letter No.17979 dated 30.07.1979 was also issued to the respondent No.1-applicant to complete the formalities within a period of 15 days for consideration of their claim, if interested, for allotment of 10 marlas plot in terms of the applicable policy. No action was, however, taken by the respondent No.1-applicant and the formalities were not completed and the application money was also not deposited.

The respondent No.1-applicant remained tight on the matter and filed a civil suit after a gap of nearly 16 years on 09.12.1992 seeking relief of mandatory and permanent injunction and directing the petitioner herein to transfer the vacant possession of a plot measuring 10 marlas on the basis of letter No.20203 dated 02.06.1975 and the reminder sent vide letter No.17979 dated 30.07.1979. The said civil suit was dismissed by

the Additional Civil Judge (Sr. Divn.), Bathinda, vide judgment and decree dated 22.03.1997 being time barred having been instituted after more than 15 years. The said judgment was challenged before the District Judge, Bathinda and vide judgment dated 02.12.1998, the appeal was dismissed and the judgment and decree passed by the Additional Civil Judge (Sr. Divn.), Bathinda, was affirmed.

Notwithstanding the dismissal of the aforesaid appeal, the respondent No.1-applicant filed the above said application No.702 of 2015 on 29.09.2015 i.e. after nearly 17 years of the dismissal of the appeal by the District Judge, Bathinda.

Notwithstanding the provisions as contained in the Legal Services Authorities Act, 1987 and the objections raised by the petitioner including the objection with respect to the inordinate delay in institution of the said application under Section 22-C the Legal Services Authorities Act, 1987, the award had been passed.

The above said factual aspect has not been disputed by the counsel for respondent No.1-applicant. He, however, contends that respondent No.1-applicant do not dispute the fact that the land of the respondent No.1-applicant had been acquired by the State of Punjab and even the entitlement of the respondent No.1-applicant to allotment of a 10 marlas plot is not controverted. It is also not a subject matter of dispute that no allotment or benefit in terms of the rehabilitation/resettlement policy of allotment has been availed by the respondent No.1-applicant or any other co-sharers/member of the family. The receipt of the application money is also not denied or disputed.

Hence, the claim has been rightly awarded by the Permanent Lok Adalat (Public Utility Services), Bathinda.

I have heard the learned counsel appearing on behalf of the parties and have gone through the documents available on record with their able assistance.

Notwithstanding the contentions raised by the counsel for the respondent No.1-applicant and noticing the undisputed facts raised by the learned senior counsel appearing on behalf of the petitioner, I find that the proceedings under Section 22 C the Legal Services Authorities Act, 1987 were not maintainable before the Permanent Lok Adalat (Public Utility Services), Bathinda.

Section 22 C of the Legal Services Authorities Act, 1987 mandates that a person has to approach the Permanent Lok Adalat (Public Utility Services), before approaching any other Court. Court has been defined under Section 2 (aaa) of the Legal Services Authorities Act, 1987 as under:-

2. Definitions.—In this Act, unless the context otherwise requires,—

xxx xxx xxx

(aaa) “court” means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions.”

Once the factum of institution of civil suit and its dismissal and thereafter the dismissal of the appeal by the District Judge, Bathinda are undisputed, there was no occasion or reason for the Permanent Lok Adalat (Public Utility Services), to exercise jurisdiction in such a matter. The Civil Court having already ruled on the entitlement of the respondent No.1-applicant and having dismissed the suit, the judgment and decree could not have been undone by means of filing a separate application before the Permanent Lok Adalat (Public Utility Services), Bathinda under the Legal Services Authorities Act, 1987. A mere entitlement claimed by the respondent No.1-applicant came to an end once the claim is stale and is barred on the principle of limitation/delay and laches. A jurisdiction conferred upon a statutory authority has to be exercised strictly in accordance with law and exercise of any such jurisdiction which is in conflict with the procedure prescribed in law would vitiate the judgment/decre.

In view of the above, the present writ petition is allowed. The Award dated 20.12.2017 (Annexure P-5) passed by the Permanent Lok Adalat (Public Utility Services), Bathinda, is set aside.

Pending, misc. application(s), if any shall also stand(s) disposed of accordingly.

October 10, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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