



2023:DHC:9224



\$~1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 19.12.2023***+ **CM(M) 289/2022 & CM APPL. 15870/2022, 61101/2023**

THE NEW INDIA ASSURANCE CO LTD Petitioner
Through: Ms.Awantika Manohar,
Ms.Parul Dhurwey, Adv.

versus

RAMESH CHOWRASIA AND ORS Respondents
Through: Mr.S.N. Parashar, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the order dated 11.02.2022 (hereinafter referred to as the 'Impugned Order') passed by the learned Motor Accidents Claims Tribunal, Shahdara, Karkardooma, Delhi (hereinafter referred to as the 'Tribunal') in Miscellaneous DJ 513/2021, titled ***Withdrawal of Consent Ramesh v. Jahir Ahmad.***

2. By the Impugned Order, the learned Tribunal has held that the compromise/settlement dated 08.09.2021 (hereinafter referred to as 'settlement'), which was entered into between the petitioner herein and the respondent nos.1 and 2, that is the father and mother of the deceased respectively, who are the claimants before the learned



Tribunal, was entered into by the respondent no.1 without fully and thoroughly understanding the contents and consequences thereof. The learned Tribunal has, therefore, set aside the settlement dated 08.09.2021 passed by the Pre-Lok Adalat and has further directed that the amount deposited by the petitioner herein with the learned Tribunal pursuant to the settlement dated 08.09.2021 be returned along with the interest accrued thereon to the petitioner herein.

Submissions of the learned counsel for the petitioner

3. The learned counsel for the petitioner submits that the learned Tribunal has erred in its finding that the settlement dated 08.09.2021 was signed by the respondent no.1 without fully and thoroughly understanding the contents and consequences thereof. She submits that the respondent no.1 was duly represented by a counsel before the Pre-Lok Adalat on 08.09.2021. He not only was explained the terms of the settlement, but having understood them fully and accepting them, the respondent no.1 gave a statement before the Pre-Lok Adalat giving his consent to the terms of the settlement, based whereof, the Pre-Lok Adalat passed the Award dated 08.09.2021 recording that the disputes between the parties stood settled, and placed the same before the Lok Adalat. The Lok Adalat, in turn, passed the Award dated 11.09.2021 on the basis of the settlement. She submits that it is only later, that the respondent no.1 took a plea that as he was being represented by a new counsel, due to which he was not explained the terms of the settlement and the consequences thereof in a correct manner, under a misconception, he had signed the statement which was recorded by the Pre-Lok Adalat. The learned counsel for the



petitioner submits that the Member of the Pre-Lok Adalat is the same who passed the Award on 11.09.2021 before the Lok Adalat as also the Impugned Order. The Member knew that the respondent no.1 had been fully explained the terms of the settlement and had acknowledged the same in his statement by signing the same.

4. Placing reliance on Regulation 17 of the National Legal Services Authority (Lok Adalat) Regulations, 2009 (hereinafter referred to as the 'Regulations'), she submits that where the parties have signed the settlement and the Member of the Lok Adalat has counter-signed it, it becomes an Award of the Lok Adalat and the same cannot be undone in such a casual manner. In fact, a duty is cast under the Regulation 17(5) of the Regulations on the Members of the Lok Adalat to ensure that the parties affix their signatures on the settlement only after fully understanding the terms thereof. The Members of the Lok Adalat are also to satisfy themselves that the terms of settlement are not unreasonable or illegal or one-sided, and the settlement has been arrived at voluntarily and not on account of any threat, coercion, or undue influence.

5. She further submits that, in any case, by signing the statement before the Pre-Lok Adalat on 08.09.2021, and the order passed thereon by the Pre-Lok Adalat, a decree by consent under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (in short, 'CPC') would come about, and the same cannot be challenged in this manner.

Submissions of the learned counsel for the respondent no.1 and 2

6. On the other hand, the learned counsel for the respondent nos.1 and 2 submits that the terms of the settlement were highly



2023:DHC:9224



unreasonable, and realizing the same, the respondent no.1 on 09.09.2021, that is, even before the passing of the Award by the Lok Adalat on 11.09.2021, filed an application withdrawing his consent to the terms thereof. The Lok Adalat, however, in ignorance of such application, and even in the absence of the parties, proceeded to pass the Award on 11.09.2021. He submits that therefore, the Award has been rightly recalled by the learned Tribunal.

7. He submits that no prejudice has been caused to the petitioner inasmuch as the amount deposited by the petitioner has been ordered to be refunded alongwith interest accrued thereon.

Analysis and finding

8. I have considered the submissions made by the learned counsels for the parties.

9. Section 19 of the Legal Services Authority Act, 1987 (in short, 'Act') provides for organisation of Lok Adalat for every State Authority, or District Authority, or the Supreme Court Legal Services Committee, or the Legal Services Committee of the High Court. Section 20 of the Act states that the Lok Adalat shall *inter-alia* take cognizance of any case referred to it by a Court where it is pending, with the consent of the parties. Sub-Section 5 of Section 20 of the Act states that where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the Court from which the reference has been received. The Court to which record has been sent back shall proceed to deal with such case from the stage which was reached before such reference was made to the Lok Adalat.



10. Section 21 of the Act states that every Award made by a Lok Adalat shall be deemed to be a decree of the Civil Court. It shall be final and binding on all the parties to the dispute, and no appeal shall lie to any Court against the Award. It is, therefore, only the Award passed by the Lok Adalat, which is given the status of a decree passed by a Civil Court.

11. Section 22 of the Act states that the Lok Adalat or the Permanent Lok Adalat shall, for the purposes of holding any determination under this Act, have the same powers as are vested in a Civil Court under the CPC while trying a suit in respect of the matters stated in Sub-Section 1 of Section 22 of the Act.

12. The Regulation 9 of the Regulations provides that Lok Adalats shall have the power only to help the parties to arrive at a compromise or settlement between the parties to a dispute and, while doing so, it shall not issue any direction or order in respect of such dispute between the parties. Further, Regulation 13 of the Regulations prescribes the procedure for the Lok Adalat. The same is reproduced as under:

“13. Procedure in Lok Adalats.- (1) Members of Lok Adalat have the role of statutory conciliators only and have no judicial role and they, mutatis mutandis, may follow the procedure laid down in sections 67 to 76 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Members of Lok Adalat shall not pressurise or coerce any of the parties, to compromise or settle cases or matters, either directly or indirectly.



(3) In a Lok Adalat the members shall discuss the subject matter with the parties for arriving at a just settlement or compromise and such members of the Lok Adalat shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute:

Provided that if it found necessary the assistance of an independent person or a trained mediator may also be availed of the by Lok Adalat.

(4) Members of Lok Adalat shall be guided by principles of natural justice, equity, fairplay, objectivity, giving consideration to, among other things, the rights and obligations of the parties, custom and usages and the circumstances surrounding the dispute.

(5) The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate taking into account the circumstances of the case, wishes of the parties including any request by a party to the Lok Adalat to hear oral statements, and the need for a speedy settlement of the dispute.

(6) The Lok Adalat shall not determine a reference, at its own instance, but shall determine only on the basis of a compromise or settlement between the parties by making an award in terms of the compromise or settlement arrived at:

Provided that no Lok Adalat has the power to hear the parties to adjudicate their dispute as a regular court:

Provided further that the aware of the Lok Adalat is neither a verdict nor an opinion arrived at by any decision making process.”

13. Clearly therefore, the jurisdiction of the Lok Adalat is conciliatory in nature aimed to bring about a settlement of disputes between the parties.



14. Regulation 17(5) of the Regulations reads as under:

“17. Award.

xxx

(5) Member of the Lok Adalat shall ensure that the parties affix their signatures only after fully understanding the terms of settlement arrived at and recorded. The members of the Lok Adalat shall also satisfy themselves about the following before affixing their signatures:

(a) that the terms of settlement are not unreasonable or illegal or one-sided; and

(b) that the parties have entered into the settlement voluntarily and not on account of any threat, coercion or undue influence.”

15. A reading of the Regulation 17(5) of the Regulations would show that it is only when both parties sign or affix their thumb impressions, and the members of the Lok Adalat countersign it, that such settlement becomes an Award in terms of Section 21 of the Act. In the present case, admittedly, it is only the statement made by the respondent no.1 before the “Pre-Lok Adalat” that was signed by the respondent no.1. A ‘Pre Lok Adalat’ is a preparatory meeting held to weed out the cases that are fit to be placed before the Lok Adalat, and, where possible, bring about a settlement of disputes between the parties. The final Award can however, be passed on such settlement only by the Lok Adalat, as it is only the Lok Adalat which has a statutory status and recognition under the Act.

16. In the present case, the Pre-Lok Adalat passed the order dated 08.09.2021, directing that the matter be listed for disposal before the Lok Adalat scheduled on 11.09.2021. The Award was therefore yet to



2023:DHC:9224



be passed. Though the order dated 08.09.2021 states that the Award is being passed in terms of the settlement, this would be clearly erroneous and ultra vires the powers of the Pre-Lok Adalat. This would not be an Award in terms of Section 21 of the Act as it is not passed by the Lok Adalat but in a proceeding prior to the Lok Adalat.

17. Be that as it may, on the very next day, that is, 09.09.2021, the respondent no.1 filed an application seeking withdrawal of his consent to the terms of the purported Award.

18. Oblivious of this application, the Lok Adalat on 11.09.2021, in the absence of the learned counsels for the parties and the representatives of the parties, and without obtaining signatures of the parties, proceeded to pass an Award recording that the matter has already been settled in the Pre Lok Adalat Sitting held on 08.09.2021. In my opinion, the procedure adopted by the Lok Adalat was erroneous and the Award dated 11.09.2021 cannot be taken cognizance of. It was *non-est* in the eyes of law.

19. The submission of the learned counsel for the petitioner that the statement recorded by the Pre-Lok Adalat on 08.09.2021, should be treated as a consent decree in terms of the Order XXIII Rule 3 of the CPC also cannot be accepted. In the present case, before the matter travelled to the Court, the respondent no.1 had already withdrawn his consent to the terms of the settlement. It could therefore not be said that the claim in the Claim Petition already stood adjusted by way of a lawful agreement or compromise. In any case, the satisfaction of the Court in the present case has not been recorded to the terms of the settlement.



2023:DHC:9224



20. It is also relevant to note that the respondent nos.1 and 2 did not withdraw the compensation that was agreed upon on 08.09.2021, and it is therefore not the case that the petitioner suffered any prejudice. In fact, the amount deposited by the petitioner pursuant to the order dated 08.09.2021, has been ordered to be refunded to it along with interest accrued thereon.

Conclusion

21. In view of the above, I find no merit in the present petition. The same is accordingly dismissed. The pending applications also stand disposed of.

22. The petitioner shall pay costs of Rs.25,000/- to the respondent nos.1 and 2, within a period of four weeks from today.

NAVIN CHAWLA, J

DECEMBER 19, 2023/Arya/RP

Click here to check corrigendum, if any