BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.3669 of 2021
and
W.M.P.(MD)Nos.2958 & 2959 of 2021

Punjab National Bank,
Ramanathapuram Branch,
No.37, Central Plaza First Floor,
KTM Complex, Salai Street,
Ramanathapuram – 623 501,
Rep. by its Branch Manager. ... Petitioner

Vs.

1. The Chairman / District Judge,
   Permanent Lok Adalat,
   District Court Campus, Ramanathapuram.

2. M.Karunanithi

3. The District Collector,
   Ramanathapuram District,
   Collectorate Post, Ramanathapuram – 623 503.

4. The Joint Director of Agriculture,
   Collectorate Post,
   Ramanathapuram District,
   Ramanathapuram – 623 503.

5. The New India Assurance Co. Ltd.,
   PMFBY Section, Chennai RO,
   Spencer Towers, 3rd Floor, 770, Anna Salai,
   Chennai – 2. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned ex-parte order dated 30.9.2019 made in PLA case No.2 of 2019 on the file of the Permanent Lok Adalat, Ramanathapuram and quash the same and consequently direct the Permanent Lok Adalat, Ramanathapuram to refer the grievance of the respondent No.2 to the District Level Grievance Redressal Committee (DGRC) under Pradhan Mantri Fasal Bima Yojana-crop insurance scheme (PMFBY).

For Petitioner	: Mrs.J.Maria Roseline, for M/s.VASTLAW Associates.
For R-1 & R-3 & R-4	: Mr.T.Villavan Kothai, Additional Government Pleader
For R-2	: Mr.S.Malaikani
For R-5	: Mr.G.Prabhu Rajadurai

* * *

ORDER

Heard both sides.

2.The writ petitioner is a banking company. The second respondent is an agriculturist. He availed loan from the petitioner bank in the year 2016. The loan was to be repaid within five years. He had already enrolled himself under the Pradhan Mantri Fasal Bima Yojana-Crop Insurance (PMFBY). The premium was debited from the second respondent's account. His case is that though he suffered crop losses for three consecutive years (ie.) 2016-2017, 2017-2018 and 2018-2019, the insurance amount was not paid. He submitted petition dated 17.06.2019 before the District Legal Services Authority, Ramanathapuram. The petitioner herein was the sole respondent. Notice was issued. Since the bank failed to appear, an ex-parte award was passed on 30.09.2019 directing them to pay the award amount with interest @ 6% p.a. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition. Her contentions are as follows:-

(i) The permanent Lok Adalat did not have jurisdiction to adjudicate the dispute.

(ii) The petition suffered from the vice of non-joinder since the concerned insurance company was not impleaded.

(iii) The impugned award was passed in violation of the principles of natural justice.

(iv) The second respondent ought to have approached the District Level Grievance Redressal Committee (DGRC) and not the Permanent Lok Adalat, Ramanathapuram.

She pointed out that subsequent to the passing of the award, the claim of the second respondent in respect of the last two years (ie.) 2017-2018, 2018-2019 was settled. She called upon this Court to set aside the impugned award and relegate the second respondent to go before the District Grievance Redressal Committee.

4.The learned counsel appearing for the fifth respondent admitted that after debiting premium for the year 2016-2017 from the second respondent's account, the bank had remitted the same with the fifth respondent. Though the debiting and crediting was made on 03.11.2016, the insurance company informed the petitioner bank only on 26.06.2019 that Ramanathapuram District was not one of the Districts for which they had to render insurance service under the scheme for the year concerned. The insurance company proposed to refund the premium as it was wrongly remitted. He called upon this Court to dismiss this writ petition as far as the fifth respondent is concerned.

5.The official respondents did not take any stand and they left the matter to the decision of this Court.

6.The learned counsel appearing for the second respondent submitted that for the fault committed by the petitioner bank, the second respondent cannot suffer. He drew my attention to the various provisions of the scheme. He pointed out that if the petitioner had failed to credit the premium with the concerned insurance company, they have to bear the consequential liability. He also submitted that the case on hand would very much fall within the scope of Chapter VI-A of the Legal Services Authorities Act, 1987. He called upon this Court to sustain the impugned award and dismiss the writ petition.

7.I carefully considered the rival contentions and went through the materials on record. The Ministry of Agriculture and Farmers Welfare, New Delhi has issued operational guidelines for implementing the Pradhan Mantri Fasal Bima Yojana (PMFBY). The primary object of the scheme is to provide financial support to farmers suffering crop loss/damage arising out of unforeseen events. One of the pre-conditions for implementation of the scheme is issuance of notification by State government. The Government of Tamil Nadu issued G.O(Rt).No.270 Agriculture ((AP6) Department dated 23.08.2016. The abstract of the said Government Order is as follows:-

> "Agriculture – Notification of Crops, District, Firkas and Revenue Village for Agriculture Crops & Horticulture Crops for notification of insurance Units and publication in the State Gazette under the scheme of Pradhan Mantri Fasal Bima Yajana during Kharif 2016 season – Notification – Orders – issued."

31 Districts of Tamil Nadu (except Channai) were brought under three clusters. Ramanathapuram District falls under Cluster No.I. The

Agricultural Insurance Company of India Ltd., was selected as the implementing agency for Cluster No.I for the aforesaid three years (ie.) 2016-2017, 2017-2018, 2018-2019. The New India Assurance Company Ltd., was selected as the implementing agency for Cluster No.III. It is beyond dispute that the New India Assurance Company Ltd., was not the agency for implementing PMFBY scheme as far as Ramanathapuram District was concerned. For reasons that are not clear, the petitioner bank had mistakenly remitted the premium of the second respondent with the fifth respondent. The petitioner ought to have remitted the premium only with the Agricultural Insurance Company of India Ltd. The fifth respondent could have refunded the amount immediately and informed the petitioner that they had nothing to do with Ramanathapuram District. They took almost more than two years to respond. This delay on the part of the fifth respondent is unfortunate. But they cannot be saddled with any liability. It is the petitioner who has to bear the consequences.

8.The learned counsel appearing for the second respondent draws my attention to the following provision set out in the operational guidelines governing the scheme:-

"**XVII.Important Conditions/Clauses Applicable for Coverage of Risks**

1. Insurance companies should have received the premium for coverage either from bank, channel partner, insurance intermediary or directly. Any loss in transit due to negligence by these agencies or non remittance of premium by these agencies, the concerned bank / intermediaries shall be liable for payment of claims.

...

XXIV. Role and Responsibilities of Various Agencies

...

4. Financial Institutions / Banks

...

m) Banks should ensure that cultivator may not be deprived of any benefit under the Scheme due to errors/ omissions/ commissions of the concerned branch/ PACS, and in case of such errors, the concerned institutions shall only make good all such losses.

...

Lending Banks / RFIs

...

Under administrative mechanism, banks are designated as terminal service points for farmers. Hence, it is their duty to ensure compulsory coverage of all eligible loanee farmers and all interested non-loanee farmers. In case of any mis-reporting by Nodal Bank / branch / PACS in case of farmers coverage, concerned bank only will be liable for such mis-reporting and its consequences."

The above provisions clearly lead to the conclusion that if the bank or any intermediary was negligent in remitting the premium with the insurance company, they are liable to settle the claims of the farmer concerned. In this case, the petitioner was negligent. Therefore, the petitioner has to compensate the second respondent for the loss suffered by him for the year 2016-2017.

9.Even though I have endorsed the stand of the second respondent and the fifth respondent, the impugned award cannot be sustained. The Legal Services Authorities Act was enacted in the year 1987. Vide amendment made in the year 2002, Chapter VI-A was introduced providing for establishment of Permanent Lok Adalat. The jurisdiction and powers of the permanent Lok Adalat can be culled out from Sections 22A, 22B(1) and 22C(1). The said provisions read as follows:-

> "**22A. Definitions.**—
>
> In this Chapter and for the purposes of sections 22 and 23, unless the context otherwise requires,—
>
> (a) "Permanent Lok Adalat" means a Permanent Lok Adalat established under sub-section (1) of section22B;
>
> (b) "public utility service" means any—
>
> (i) transport service for the carriage of passengers or goods by air, road or water; or
>
> (ii) postal, telegraph or telephone service; or

(iii) supply of power, light or water to the public by any establishment; or

(iv) system of public conservancy or sanitation; or

(v) service in hospital or dispensary; or

(vi) insurance service,

and includes any service which the Central Government or the State Government, as the case may be, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

22B. Establishment of Permanent Lok Adalats.—

(1) Notwithstanding anything contained in section19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

...

22C. Cognizance of cases by Permanent Lok Adalat.—

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

Provided also that the Central Government, may by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority."

Bar Council of India challenged the vires of the 2002 Amendment Act by filing petition under Article 32 of the Constitution of India. One S.N.Pandey also questioned the establishment of Permanent Lok Adalats. The writ petitions were independently dismissed and the constitutionality of Chapter VI-A was upheld [***(2012) 8 SCC 243 (Bar Council of India vs. UOI) & (2012) 8 SCC 261 (S.N.Pandey vs. UOI)***].

10.No statutory body can travel beyond the limits imposed by the parent statute. A Permanent Lok Adalat is no exception. When an application for divorce by mutual consent was made before Permanent Lok Adalat, the Calcutta High Court in the decision reported in ***(2007) 1 CHN 578 (Rita Kumari Shahu v. Shyam Sundar Shahu)*** held that matrimonial dispute not being public utility service Permanent Lok Adalat had no jurisdiction to entertain and to pass decree of mutual divorce. When one of the gates of a major hospital was closed, an advocate filed an application under Section 22C(1) of the Act for opening the gate. The application was allowed by the Permanent Lok Adalat. The High Court of Orissa in the decision reported in ***AIR 2013 Ori 91 (The Dean and Principal, M.K.C.G Medical College and Hospital vs. Bijay Kumar Patnaik)*** held that service in hospital or dispensary means the system that provides medical care facilities and treatment to the patients and nothing else and that closure of one gate of a hospital cannot come under the purview of service in hospital or dispensary.

11.It is beyond dispute that the Permanent Lok Adalat can have jurisdiction only over “public utility services”. Section 22A(b) defines what is public utility service. The definitional clause employs the expression “means”. It is therefore intended to be restrictive and exhaustive (vide P Ramanatha Aiyar's Advanced Law Lexicon 5th Edition Page 3226). Banking service has not been included in the definition. Insurance service is one of the services catalogued in the definition. Merely because the bank concerned has to be fastened with liability for its negligence, it would not mean that the bank is rendering insurance service. The role of the bank in this case was only to credit/remit the premium of the farmer with the concerned insurance company. This cannot mean that the bank is rendering insurance service.

Since the Permanent Lok Adalat, Ramanathapuram District assumed jurisdiction over the bank which did not render any insurance service, the impugned award is lacking in jurisdiction. It is therefore set aside.

12.At the same time, the second respondent cannot be left high and dry. The scheme itself provides for Grievance Redressal mechanism. The relevant provision in the scheme reads as follows:-

> " To address any grievance / complaint under the scheme, a committee consisting of District Agriculture Officer (Nodal Officer), representatives of implementing insurance company and bank / financial institution shall be constituted. The working of the grievance committee will be monitored by District Level Monitoring Committee(DLMC) under the chairmanship of District Magistrate.
>
> ...
>
> **District Level Grievance Redressal Committee(DGRC) :** A district level monitoring Committee shall act as a grievance redressal Committee for redressal of grievances of Farmers, Banks, Insurance Company, District Authority / Department. This Committee will be headed by District Magistrate / Collector and representatives of Farmers, LDM/Banks, DDM NABARD, Insurance Company and concerned District Authority / Department shall be appointed as members. This Committee may also invite subject specialists/ experts from University / IMD/ commodity Board/Research Institutions, SRSC etc., if deemed necessary. The Committee will

> dispose the matter within 15 days. The decision of the Committee shall be accepted by all the parties and in act of disagreement with the decision; the same shall be accepted by all the parties and in case of disagreement with the decision; the same shall be represented to the State Level Grievance Redressal Committee (SGRC) within 15 days from the decision of DGRC. In case the DGRC doesn't take the matter for discussion within 7 days from submission of grievance or the grievance has wider scope of effect impacting more number of districts or there is a breach of guidelines by any of the stakeholder or the grievance matter exceeds Rs.25 Lakh in monetary terms, the matter may be directly raised at State Level Grievance Redressal Committee."

I permit the second respondent to move the District Level Grievance Redressal Committee. The only duty of the committee in this case is to estimate the loss suffered by the second respondent and quantify the compensation payable by the bank to the second respondent. Such quantification shall be done by the committee within a period of eight weeks after submission of the application by the second respondent. Once the committee directs the petitioner bank to pay compensation to the second respondent, it shall be complied with by the petitioner. The award to be passed by the Committee will carry interest @ 6% p.a. from the date of filing of the petition before the Permanent Lok Adalat. Since the claim of the second respondent has been satisfied in respect of the subsequent two years, the scope of enquiry shall be confined only to the year 2016-2017.

13.With this declaration that “banking service” is not “public utility service” within the meaning of Section 22A(b) of the Legal Services Authorities Act, 1987 and with direction to the petitioner-bank to satisfy the award to be passed by the District Level Grievance Redressal Committee in favour of the second respondent for the year 2016-17, the impugned award is set aside.

14.This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

09.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU/SKM

To

1. The Chairman / District Judge,
   Permanent Lok Adalat,
   District Court Campus, Ramanathapuram.

2. The District Collector,
   Ramanathapuram District,
   Collectorate Post, Ramanathapuram – 623 503.

3. The Joint Director of Agriculture,
   Collectorate Post,
   Ramanathapuram District, Ramanathapuram – 623 503.

G.R.SWAMINATHAN, J.

PMU/SKM

WP(MD)No.3669 of 2021

09.01.2024