



W.P(MD)No.22605 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.22605 of 2021

and

W.M.P(MD)No.19117 of 2021

B.Divya

... Petitioner

Vs

1.The City Commissioner,
Tiruchirappalli City Corporation,
Bharathidasan Salai,
Tiruchirappalli – 620 001.

2.T.Rajkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records of the permanent Lok Adalat in Case No.3 of 2021 dated 22.11.2021 and quash the same.

For Petitioner : Mr.V.Panneerselvam

For R – 1 : Mr.K.R.Kishore Ram
for M/s.R.B.Law Associates

For R – 2 : Mr.P.Arun Jayatram



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ORDER

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This Writ Petition has been filed by the petitioner challenging the award passed by the Lok Adalat in permanent Lok Adalat Case No.3 of 2021 dated 22.11.2021.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.Originally, the second respondent lodged complaint before the Legal Services Authority and the said complaint was referred before the Permanent Lok Adalat, Tiruchirappalli. The Presiding Officer of the Permanent Lok Adalat order on merits, in the complaint lodged by the second respondent, by setting aside the petitioner as exparte. Before the Lok Adalat, no order can be passed on merits.

4.In this regard, it is relevant to extract the provision under Section 22-C (4) to (8) of the Legal Services Authorities Act, 1987 hereunder:



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"22-C. Cognizance of cases by Permanent Lok Adalat:

.....

(4) When statement, additional statement and reply, if any, have been filed under sub-section(3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-Section(4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of the every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall



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sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.”

5.Further, it is relevant to rely upon the Judgment cited by the learned counsel appearing for the petitioners in **Canara Bank Vs. G.S.Jayarama** reported in **(2022) 7 SCC 776**, in which, the Hon'ble Supreme Court of India dealt with the issue that whether the conciliation proceedings before the permanent Lok Adalats are mandatory before it can decide a dispute on its merits and the relevant paragraphs are extracted hereunder:

“36.The appellant’s argument, however, is that if the opposite party does not appear before the Permanent Lok Adalat, it can dispense with the conciliation proceedings and straightaway adjudicate the dispute under Section 22-C(8). We are unable to accept this submission. Even if the opposite party does not appear, the Permanent Lok Adalat is still bound to follow the step-by-step procedure laid down by Section 22-C. Under Section 22-C(3), it would require the party before it to file



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their submissions and documents, and make the best efforts to communicate them to the opposite party for their response. If it is satisfied that no response is forthcoming from the absent opposite party, the Permanent Lok Adalat shall still attempt to settle the dispute through settlement under Section 22-C(4). It is important to remember that Section 22-C(5) imposes a duty upon the Permanent Lok Adalat to be independent and impartial in attempting to amicably settle the dispute, while Section 22-C(6) imposes a duty upon the party present before the Permanent Lok Adalat to cooperate in good faith and assist the Permanent Lok Adalat. Thereafter, the Permanent Lok Adalat, based on the materials before it, shall propose terms of settlement and communicate them to both parties, regardless of whether they participated in the proceedings. If the party present before the Permanent Lok Adalat does not agree or if the absent party does not respond in a PART C sufficient period of time, only then can the Permanent Lok Adalat adjudicate the dispute on its merits under Section 22-C(8). Keeping in mind the principles enshrined in Section 22-D, the Permanent Lok Adalat shall once again notify the absent party of its decision to adjudicate the dispute on its merits, in case it wishes to join the proceedings at that stage.

37. Section 22-C(8) is amply clear that it only comes into effect once an agreement under



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Section 22-C(7) has failed. The corollary of this is that the proposed terms of settlement under Section 22-C(7), and the conciliation proceedings preceding it, are mandatory. If Permanent Lok Adalats are allowed to bypass this step just because a party is absent, it would be tantamount to deciding disputes on their merit ex parte and issuing awards which will be final, binding and will be deemed to be decrees of civil courts. This was simply not the intention of the Parliament when it introduced the LSA Amendment Act. Its main goal was still the conciliation and settlement of disputes in relation to public utilities, with a decision on merits always being the last resort. Therefore, we hold that conciliation proceedings under Section 22-C of the LSA Act are mandatory in nature.”

6.If the opposite party does not appear, the Permanent Lok Adalat is still bound to follow the step-by-step procedure contemplated under Section 22-C of the said Act, 1973. It would require the party before it to file their submissions and documents and make the best efforts to communicate them to the opposite party for their response. Even no response, the Permanent Lok Adalat shall still attempt to settle the dispute through a settlement under Section 22-C(4) of the said Act, 1987. It imposes a duty upon the Permanent Lok Adalat to be independent and impartial in



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attempting to amicably settle the dispute. Therefore, if the Permanent Lok Adalat bypass this step just because of the absence of the opposite party, it would be tantamount to decide the disputes on their merit exparte and issuing awards which will be final binding and will be deemed to be decrees of civil Courts. It was not an intention of the Parliament when it had introduced the Legal Services Authority Amendment Act. The main goal is conciliation and settlement of disputes in relation to public utilities. Therefore, it is mandatory in nature.

7.That apart, on perusal of the complaint lodged by the second respondent alleging that the petitioner herein was running an Industrial Unit in the name and style of 'Abinash Creatives' doing Fabrication work for flex and placard on constructing one large shed with colossal iron beams by obstructing the Corporation's pathway sprawling 20 feet width on east-west direction near the house of the second respondent, now the petitioner herein shifted the Industry to some other place and there is no nuisance or any hindrance to the second respondent. In view of the above, the award passed in permanent Lok Adalat in Case No.3 of 2021 dated 22.11.2021 cannot be sustained and the same is liable to be quashed.



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8. Accordingly, the award passed in permanent Lok Adalat in Case No.3 of 2021 dated 22.11.2021 is quashed and the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

20.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The City Commissioner,
Tiruchirappalli City Corporation,
Bharathidasan Salai,
Tiruchirappalli – 620 001.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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