

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8814-2016 (O&M)
DECIDED ON: 12.01.2024

SUNCITY PROJECTS PVT. LTD. AND ANR.PETITIONERS
VERSUS
PERMANENT LOK ADALAT AND ORS.RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Aashish Chopra, Senior Advocate with
Mr. Gagandeep Singh, Advocate
for the petitioners.

Mr. Kamal Kumar Mor, Advocate
for respondent No.2.

Mr. Vipul Sharma, Advocate for
Mr. Kunal Dawar, Advocate
for respondent No.4.

SANJAY VASHISTH, J (ORAL)

1. Present writ petition has been filed by Suncity Projects Private Limited and Harender Kumar (an employee of the company i.e. Suncity Projects Private Limited) for issuance of writ in the nature of certiorari for quashing of the award dated 01.02.2016, (Annexure P-18) passed by Permanent Lok Adalat, while exercising its power under Section 22C of Legal Services Authority Act, 1987.
2. While referring to the first page of impugned award, learned Senior counsel for the petitioners submits that petitioner No.1 being not even a party, is faced with a direction issued by the Permanent Lok Adalat.
3. Operative part of said direction is as under:-

“10. In view of the tripartite agreement, the RWA is responsible for providing maintenance facilities to the owners of 184 apartments and not to the other establishments. The liability for providing maintenance services to other establishments including 32 EWS flats

still lies with M/s Suncity Projects Pvt. Ltd. Company, now represented before this Adalat by respondent no 2

11. So respondent no.2 representing the company M/s Suncity Projects Pvt. Limited is directed to provide the qlectricity water an and other necessary amenities to the apartment of the applicant which form part of 32 EWS flats The application is disposed off accordingly. File be consigned to record room."

4. At the time of preliminary hearing i.e. on 06.05.2016, following order was passed by this Court:-

"Present: Mr.Aashish Chopra, Advocate, for the petitioners.

Learned counsel for the petitioners, inter alia, contends that the liability has been fastened upon petitioner No.1 through petitioner No.2 though petitioner No.1 was not a party before the Permanent Lok Adalat (PUS) and petitioner No.2 was never authorised by petitioner No.2 to contest the application filed under Section 22-C of the Legal Services Authority Act, 1987 [for short 'the Act'] on their behalf. Petitioner No.1 is a private limited company which can only be represented through its resolution and since there is no resolution in favour of petitioner No.2 on behalf of petitioner No.1, therefore, any statement made by petitioner No.2 before the Permanent Lok Adalat (PUS) is meaningless. It is also submitted that even petitioner No.2 had contested the application filed by the applicant/respondent No.2 for the purpose of deletion of his name from the array of parties, who has been arrayed in the application filed under Section 22-C of the Act. It is further submitted that even otherwise the liability to maintain and provide electricity, water and other necessary amenities is of the Resident Welfare Association (RWA) as petitioner No.1 was only the developer, who after developing the property in question handed over its possession to respondent No.2 and maintenance to the association.

Notice of motion for 14.07.2016.

In the meantime, the impugned order shall remain stayed."

5. Thus, learned Senior counsel appearing on behalf of the petitioners argues that since, petitioners were not impleaded as necessary party before Permanent Lok Adalat, no such direction could be issued without affording an opportunity of hearing to the petitioner No.1. In fact, there is clear violation of the principal of '*natural justice*'. Thus, the order is worth to be quashed, solely on this ground.

6. On the other hand, counsel for respondent No.2 (only contesting one) is unable to give any satisfactory explanation to the submissions addressed by counsel for the petitioners before this Court today. However, he submits that defect, which is pointed out by the petitioners, is curable one, therefore, they be granted liberty to file a fresh complaint, in accordance with law, by impleading all the necessary parties.

7. Taking note of all the factual aspects narrated in the present writ petition, as well as arguments addressed by counsel from both the sides, this Court is of the view that direction passed against petitioner No.1 is worth for setting aside for the reason that the same has been passed by ignoring the basic principle of natural justice i.e. “*audi alteram partem*” that means “*no one should be condemned unheard*”.

There is nothing mentioned that ever any notice was issued to the company before issuance of the final directions.

8. Therefore, impugned order dated 01.02.2016 passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon, is set aside and consequently, the **present writ petition is allowed**.

9. However, liberty as prayed by contesting respondent No.2 for filing a fresh complaint by impleading all the necessary parties, is accepted. Thus, in case, any such complaint is filed within 8 weeks from today, same be decided by the concerned forum, within the next 6 months, in accordance with law.

10. Disposed of.

(SANJAY VASHISTH)
JUDGE

12.01.2024
Lavisha

<i>Whether speaking/reasoned</i>	✓Yes/ No
<i>Whether reportable</i>	✓Yes/ No