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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CR-4584-2024

Date of Decision: 13.08.2024

Gurpratap Singh

....Petitioner

Versus

Presiding Officer, National Lok Adalat and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Rajesh Punj, Advocate
for the petitioner.

VIKAS SURI, J.(Oral)

1. This petition filed under Article 227 of the Constitution of India is at the instance of petitioner-Gurpratap Singh, assailing the order dated 14.12.2019 (Annexure P-1) passed by the learned Presiding Officer, National Lok Adalat, Fatehgarh Sahib, whereby on a statement suffered by learned counsel for the plaintiff, the suit stands dismissed as withdrawn and court fees was ordered to be refunded as per rules, as well as order dated 20.05.2024 (Annexure P-2) passed by the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib, whereby the application filed by the petitioner for withdrawal of statement dated 20.09.2019 and for restoration of the suit, was also dismissed.



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2. Shorn of unnecessary details, the facts in brief are that on 09.09.2019 the plaintiff-petitioner instituted a suit for permanent injunction and for mandatory injunction for a direction to defendant Nos.1 to 3 and 5, who are respondent Nos.2 to 4 and 6 herein, to return the cheque book of Axis Bank having some blank cheques of the plaintiff to him. On 20.09.2019, an application was filed before the trial Court for putting up the case file for the same day and to record the statement of applicant to withdraw the suit. In support of the said application, counsel for the plaintiff had suffered a statement on the same day to the effect that the parties to the suit had compromised the matter and as such he did not want to proceed further with the civil suit and prayed for withdrawal of the same. The aforesaid proceedings were posted for 14.12.2019 when the National Lok Adalat was scheduled to be held. Before the National Lok Adalat, the plaintiff was represented through counsel. It was noticed that compromise had already been effected between the parties and statement of counsel for the plaintiff stood recorded on 20.09.2019. In view of the said statement so suffered, the suit was ordered to be dismissed as withdrawn and the court fee was ordered to be refunded as per rules vide order dated 14.12.2019 (Annexure P-1). On 03.03.2020, the petitioner-plaintiff moved an application seeking withdrawal of statement of the counsel and restoration/restarting of the suit.

3. Upon notice, the said application was opposed by filing reply on behalf of the respondents. The said application was dismissed vide order dated 20.05.2024 (Annexure P-2) passed by learned Additional Civil Judge (Senior Division), Fatehgarh Sahib.



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4. By way of the present petition, the petitioner has raised challenge to the said order along with the order dated 14.12.2019 (Annexure P-1) passed by the learned Presiding Officer, National Lok Adalat, Fatehgarh Sahib.

5. Learned counsel for the petitioner has argued that the application dated 20.09.2019 filed for withdrawal of the suit has not been signed by the plaintiff but only by his counsel. Moreover, the statement before the Court on 20.09.2019 was also of the counsel and not of the plaintiff. It is further submitted that petitioner did not get any statement recorded before the National Lok Adalat when the award dated 14.12.2019 (Annexure P-1) was passed. Moreover, on the same incident alleged in the suit, petitioner had filed a criminal complaint on 18.10.2021 wherein the accused, respondent Nos.2 to 6 herein, had been summoned vide order dated 30.04.2024 (Annexure P-15) passed by learned Judicial Magistrate First Class, Fatehgarh Sahib, and the said proceedings are pending. It is prayed that order dated 14.12.2019 (Annexure P-1) passed in the National Lok Adalat as well as order dated 20.05.2024 (Annexure P-2) declining to withdraw the statement dated 20.09.2019, be set aside. It is further urged that the case of the petitioner is that he never gave any instructions to the counsel to compromise the matter or to give statement for withdrawal of the same. The suit having been withdrawn by counsel without instructions of the petitioner, cannot be sustained.

6. I have heard learned counsel for the petitioner and perused the record with his able assistance.

7. Undisputedly, plaintiff-petitioner had filed a suit against respondent Nos.2 to 6, wherein the following relief was prayed:-



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“It is, therefore, prayed that suit of the plaintiff for permanent injunction restraining the defendants, their agents and servants from recovering any amount from the plaintiff forcibly, illegally, with coercive method and with the help of the police or in any other manner and suit for mandatory injunction directing the defendants No.1 to 3 and 5 to return the cheque Book of Axis Bank having some blank cheques of the plaintiff to him, may kindly be decreed in favour of the plaintiff and against the defendants with costs.”

8. Noticeably, in the application seeking withdrawal of the statement dated 20.09.2019, the applicant specifically averred in para 6 thereof that the applicant had come to the Court on 14.12.2019 to inquire about the suit, when he came to know that the same has been dismissed in default on the same day and after that he consulted his Advocate for legal opinion and hence, the application seeking withdrawal of the statement and restoration of the suit to its original position, had been filed. A perusal of the record further shows that the said application was subsequently amended and the amended application dated 29.11.2022 has been appended with the present petition as Annexure P-10. It is not disputed that the petitioner became aware of an adverse order having been passed on 14.12.2019 and he also availed legal assistance but the application seeking recalling of the statement dated 20.09.2019 was moved only on 03.03.2020, i.e. after a period of nearly two and half months. The criminal complaint on which much stress has been laid, was filed on 18.10.2021, i.e. after about more than two years since the application/statement dated 20.09.2019 was made before the Court and the suit stood withdrawn vide award dated 14.12.2019. On a query of the Court,



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learned counsel for the petitioner has candidly submitted that no complaint has ever been made against his counsel who suffered statement dated 20.09.2019 till date. It is sought to be explained that the petitioner did not want to start another set of legal proceedings. The said explanation cannot be accepted, even with the pinch of salt, for the reason that for the grievance raised in the suit, the petitioner has filed a criminal complaint after two years and nothing would have stopped him from seeking judicial redress had his Advocate exceeded his brief.

9. Learned counsel for the petitioner has placed reliance on a decision of co-ordinate Bench in ***Sewa Singh vs. The Daily Lok Adalat (Bench No.1), Punjab and Haryana High Court, Chandigarh and others, 2016(1) PLR 57***, to contend that it was mandatory for the Lok Adalat to hear oral statements, ensure the parties appear before the Court and get the statements recorded and thereafter pass the award. Reliance was placed upon the decision of the Apex Court in ***Himalayan Cooperative Group Housing Society vs. Balwan Singh, 2015(3) RCR (Civil) 394***. The relevant portion of the said judgment noticing the statement of Lord Brougham, is reproduced hereunder for ready reference:-

“32. Therefore, it is the solemn duty of an advocate not to transgress the authority conferred him by the client. It is always better to seek appropriate instructions from the client or his authorized agent before making any concession which may, directly or remotely, affect the rightful legal right of the client. The advocate represents the client before the Court and conducts proceedings on behalf of the client. He is the only link between the Court and the client. Therefore his responsibility is onerous.



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He is expected to follow the instructions of his client rather than substitute his judgment.

33. Generally, admissions of fact made by a counsel is binding upon their principals as long as they are unequivocal; where, however, doubt exists as to a purported admission, the Court should be wary to accept such admissions until and unless the counsel or the advocate is authorised by his principal to make such admissions. Furthermore, a client is not bound by a statement or admission which he or his lawyer was not authorised to make. Lawyer generally has no implied or apparent authority to make an admission or statement which would directly surrender or conclude the substantial legal rights of the client unless such an admission or statement is clearly a proper step in accomplishing the purpose for which the lawyer was employed. We hasten to add neither the client nor the Court is bound by the lawyer's statements or admissions as to matters of law or legal conclusions. Thus, according to generally accepted notions of professional responsibility, lawyers should follow the client's instructions rather than substitute their judgment for that of the client. We may add that in some cases, lawyers can make decisions without consulting client. While in others, the decision is reserved for the client. It is often said that the lawyer can make decisions as to tactics without consulting the client, while the client has a right to make decisions that can affect his rights. We do not intend to prolong this discussion. We may conclude by noticing a famous statement of Lord Brougham:

‘an advocate, in the discharge of his duty knows but one person in the world and that person is his client.’”

10. No explanation forthcoming with regard to the delay in instituting the application seeking withdrawal of the statement dated 20.09.2019 or institution of criminal complaint after nearly two years. In the absence of any cogent material placed before this Court, the only inference that could be



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drawn is that the application dated 03.03.2020 was an afterthought.

11. Even if viewed from another angle, the impugned order dated 14.12.2019 (Annexure P-1) is an award passed by National Lok Adalat, Fatehgarh Sahib, and the same could not have been effectively challenged by moving an application seeking withdrawal of the statement on the basis of which the said award had been passed. The petitioner never chose to impugn the aforesaid award in accordance with law.

12. A conjoint reading of the above discussion leads, to the irresistible conclusion that the present petition is devoid of merits and is liable to be dismissed as such.

13. Accordingly, the revision petition is dismissed in *limine*.

August 13, 2024
Varinder

(VIKAS SURI)
JUDGE

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