

(2009) 05 JH CK 0040
In the Jharkhand High Court

Eastern-Central Railway and Another	APPELLANT
Vs	
Ashok Kumar Verma and Others	RESPONDENT

Date of Decision : 23-05-2009

Acts Referred:

Legal Services Authorities Act, 1987 — Section 22C, 22D, 22E

Citation : (2009) 05 JH CK 0040

Hon'ble Judges : D.N. Patel, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.N. Patel, J.—Learned Counsel appearing for the Railway authorities -Govt. of India, submitted that the Permanent Lok Adalat, Dhanbad has decided the dispute on merits without the concept of the present petitioners which is totally de-horse the provisions of Legal Services Authorities Act, 1987 (herein-after-referred to as "the Act, 1987) and it is also submitted by the learned Counsel for the petitioners that Permanent Lok Adalat, Dhanbad has lost sight of the fact that they are not judges, and they cannot wear the robe of the court from the very beginning. Their primary role is of conciliator and not of an adjudicator, otherwise for adjudication various civil courts are available. Parties are never going to the Permanent Lok Adalats for getting decision on merits. There is no power, jurisdiction and authority vested in the Permanent Lok Adalat to decide the issues on merits without consent of the present petitioners. The learned Counsel for the petitioners relied upon the? decision rendered by Hon"ble Supreme Court, reported in 2000 (2) SCC 660 and United India Insurance Co. Ltd. Vs. Ajay Sinha and Another, as well as a decision rendered by this Court in Writ Petition (C) No. 1449 of 2008 judgment dated 9th April, 2009 and submitted that the order passed at Annexure -1 by the Permanent Lok Adalat, Dhanbad in P.L.(M.V.) Suit No. J635 of 2004 dated 20.7.2007 deserves to be quashed and set aside. It is submitted by the learned Counsel for the petitioners that the procedure as prescribed u/s 22(C) of the Act, 1937 has also not been properly followed by the Permanent Lok Adalat, Dhanbad, as directed by the Division

Bench of this Court as stated herein above, therefore, the order passed at Annexure-1 deserves to be set aside.

2. Though respondents were served, no body appears on behalf of the respondents. Learned Counsel for the petitioners submitted that on the previous date of hearing i.e. on 20.05.2009, also the respondents were absent and the matter was adjourned for today.

3. Pursuant to the order of this Court dated 20.5.2009 today also when the matter was called, no body appears on behalf of the respondents.

4. Having heard the counsel for the petitioner and looking to the facts and circumstances of the case, I, hereby quash and set aside the order passed by the Permanent Lok Adalat, Dhanbad in P.L.(M.V.) Suit No. 1635 of 2004 dated 20.7.2007 for the following facts and reasons:

(i) Permanent Lok Adalat, Dhanbad has lost sight of the fact that they have no power, jurisdiction and authority to decide the issue on merits, unless and until, the consent is given by the parties in writing, as decided by this Court in Writ Petition (C) No. 1449 of 2008 Judgment dated 9th April, 2009.

(ii) The issue decided by the Division Bench of this Court: in a case reported in 2008 (3) JLJR 513 that the procedure envisaged under Sub-section 7 of Section 22-C of the Act, 1987 ought to have been followed by the Permanent Lok Adalat. It is a prime duty vested in the Permanent Lok Adalat under the Act, 1987 to offer the terms and conditions of settlement using their wisdom and experience, and after offering such terms of the settlement as per Sub-section 7 of Section 22-C of the Act, 1987, sometime-; may be given to the parties to the dispute, and if they accept the terms of agreement, an award can be passed, otherwise, as per the decision given by this Court in Writ Petition (C) No. 1449 of 2008 judgement dated 9th April, 2009, a written consent of all the parties to the dispute is a must for deciding the dispute on merit by the Permanent Lok Adalat. In the facts and circumstance of the present case, neither the terms of the settlement were offered by the Permanent Lok Adalat on their own nor there was any written consent by the petitioners allowing the Permanent Lok Adalat, Dhanbad, to decide the issue on merit, therefore, I, hereby, quash and set aside the order passed by the Permanent Lok Adalat, Dhanbad at Annexure -1.

5. It ought to have been kept in mind by the Permanent Lok Adalat that they are working under the Act, 1987, and if they decide the issue on merit, perhaps, no party will come to the Permanent Lok Adalat. It should be kept in mind that the provisions of the CPC are not applicable as per Section 22-D of the Act, 1987, likewise, the provisions of the Evidence Act, 1872 are also not applicable as per the said Section. Moreover, as per Section 22-E of the Act, 1987, no appeal could be preferred against the award passed by the Permanent Lok Adalat. In this set of circumstances, a written consent of the parties to the dispute is a must prior to taking the matter on their hand for delivering decision on merit. Once a consent is given in writing by the parties to the dispute, to decide the issues on

merits, by the Permanent Lok Adalat under Sub-section 8 of Section 22-C of the Act. 1987, they are working like arbitrators, and therefore, they can decide the issues on merit, otherwise, they do not have any power to decide the dispute on merit. This aspect of the matter has not been properly appreciated by the Permanent Lok Adalat, Dhanbad.

6. In view of these facts and reasons and judicial pronouncements, especially, Writ Petition (C) No. 1449 of 2008 judgment dated 9th April, 2009, I, hereby quash and set aside the order passed by the Permanent Lok Adalat, Dhanbad, in P.L. (M.V.) Suit No. 1635 of 2004 dated 20.7.2007 at Annexure -1 to the memo of petition.

7. I, hereby, direct the Registry of this Court to send the copy of this order as well as the decision rendered by this Court in Writ Petition (C) No. 1449 of 2008 judgment dated 9th April, 2009 to all the Permanent Lok Adalats working in the State of Jharkhand so that multifariousness of the petition can be avoided.

8. Accordingly, the petition is allowed.