
(2012) 02 P&H CK 0055

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 308 of 2012 (O and M)

Haryana Urban Development Authority

APPELLANT

Vs

Chairman, Permanent Lok Adalat (Public Utility Services) and
another

RESPONDENT

Date of Decision : 27-02-2012

Acts Referred:

Legal Services Authorities Act, 1987 — Section 22(A)(b), 22(c), 22A(b)

Citation : (2012) 166 PLR 705

Hon'ble Judges : Tej Pratap Singh Mann, J; Satish Kumar Mittal, J

Bench : Division Bench

Advocate : Ajay Kumar Kansal, for the Appellant;

Judgement

Satish Kumar Mittal, J.—Haryana Urban Development Authority has filed the instant Letters Patent Appeal against the order dated 7.12.2011, passed by the learned Single Judge dismissing its writ petition (CWP No. 22624 of 2011) for quashing the order dated 25.7.2011 (Annexure P-5) passed by the Permanent Lok Adalat (Public Utility Services), Rohtak. On a petition filed by Neelam (respondent No. 2 herein) u/s 22(A)(b) read with Section 22(c) of the Legal Services Authorities Act, 1987 (hereinafter referred to as "the Act"), the Permanent Lok Adalat (Public Utility Services) vide its order dated 25.7.2011 directed the appellant to grant permission to respondent No. 2 to mortgage the plot in question within ten days of depositing Rs. 65,576/- (outstanding dues against Bhim Sain, the previous owner of the plot) by her. By the said order, an amount of Rs. 10,000/- was also awarded in favour of respondent No. 2 as compensation to be paid by the appellant on account of forcing her to file the petition before the permanent Lok Adalat because of the carelessness and negligence of the appellant department.

2. Learned counsel for the appellant argued that the Permanent Lok Adalat (Public Utility Services), Rohtak, was not competent to deal with the matter, as the Act has not conferred any jurisdiction upon the Permanent Lok Adalat to deal

with the matters pertaining to such services. According to the learned counsel, Section 22A(b) of the Act confers jurisdiction on the Permanent Lok Adalat only with respect to the following six services:-

- (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

3. The appellant is totally ignorant of Notification No. 20/1/2009-4JJ(1) dated 19.5.2009, issued by the Haryana Government, vide which two more services, i.e. Housing and Estates; and Banking and Finance, have been declared to be public utility services for the purpose of the list of services, provided in Section 22A(b) of the Act. The aforesaid Notification was issued, as Section 22A(b) of the Act to provide that "public utility service shall include 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 Act."

4. Faced with this situation, learned counsel for the appellant fairly conceded that the service in question involved in this case falls under "Housing and Estates", therefore, he does not want to press the objection with regard to jurisdiction of the Permanent Lok Adalat (Public Utility Services).

5. On merits, learned counsel for the appellant argued that there was no justification to award an amount of Rs. 10,000/- by the Permanent Lok Adalat in favour of respondent No. 2 as compensation to be paid by the appellant on account of negligence on the part of the officials of the appellant department. We do not agree with the aforesaid contention. In the present case, on the request of Bhim Sain, the previous owner, a certificate granting permission to transfer the plot No. 1101, Sector 2(P) Rohtak in favour of respondent No. 2 was issued, clearly stating that no amount was due against Bhim Sain. On the basis of that permission, respondent No. 2 had purchased the plot. The sale deed was executed and office of the appellant issued the re-allotment letter in favour of respondent No. 2. Subsequently, when respondent No. 2 wanted to obtain permission from the appellant to mortgage her plot for obtaining loan from the bank, for raising construction of house on the basis of the sanctioned building plan, office of the appellant demanded an amount of Rs. 1,15,729/- as outstanding amount against Bhim Sain. The said amount included Rs. 65,576/- as principal and the remaining amount as interest. Though respondent No. 2 had given an affidavit that she will be liable to make payment of outstanding dues,

but the Permanent Lok Adalat came to the conclusion that even if that amount was due in spite of the wrong certificate issued by the appellant department, respondent No. 2 was not liable to pay interest and on payment of the said outstanding amount of Rs. 65,576/- by her, necessary permission be granted. We do not find any illegality in that part of the order. It was the mistake of the office of the appellant department. For that mistake and negligence, respondent No. 2 should not be allowed to suffer. If the office of the appellant had indicated that the aforesaid amount was outstanding against the previous owner, respondent No. 2 could have certainly asked him to clear the outstanding amount. But after issuing the certificate that no amount was outstanding against the previous owner, the demand for the aforesaid amount being outstanding dues against the previous owner cannot be said to be justified, even though respondent No. 2 had given an affidavit to make payment of the outstanding dues. In that situation, the Permanent Lok Adalat rightly held that respondent No. 2 is liable to pay the principal amount and not the interest, because she was not negligent, but only the appellant department was negligent and careless in issuing the certificate. In these facts, the awarding of Rs. 10,000/- in favour of respondent No. 2 as compensation, to be paid by the appellant, cannot be said to be un-justified, because respondent No. 2 has been un-necessarily dragged in the litigation because of the negligence and carelessness of the officials of the appellant. Had they been vigilant at that time, respondent No. 2 would have been saved not only from paying this amount, but also from filing the petition before the Permanent Lok Adalat. Thus, the order of the Permanent Lok Adalat (Public Utility Services) has been rightly upheld by the learned Single Judge.

No merit.

Dismissed.