
(2011) 02 RAJ CK 0049
In the Rajasthan High Court
Case No : Civil Writ Petition No.1591 of 2011

ICICI Prudential Life Insurance Co. Ltd.	APPELLANT
Vs	
State of Rajasthan and Others	RESPONDENT

Date of Decision : 07-02-2011

Acts Referred:

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

Citation : AIR 2011 Raj 64 : (2011) 2 RLW 1061

Hon'ble Judges : M.N. Bhandari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.N. Bhandari, J.—By this writ petition, a challenge has been made to the order dated 30.11.2010.

2. It is a case where Permanent Lok Adalat was approached by the Respondents when they were not extended the benefit of insurance policy. The insurance policy was issued by the Petitioner in favour of the Respondent's husband. Regular premium was paid and during the period of insurance, Respondent's husband died on account of heart attack. When the claim made by the Respondent was not settled, rather vide the order dated 29.09.2009, her claim was rejected, she approached Permanent Lok Adalat.

3. Permanent Lok Aadalat issued notice to the Petitioner herein. The Petitioner thereupon made an application raising objection regarding jurisdiction of the Permanent Lok Aadalat. It was stated that no agreement or consent exists to give jurisdiction to Permanent Lok Aadalat. It was narrated that without consent of the Petitioner, Permanent Lok Aadalat cannot proceed in the matter.

4. Learned Counsel for Petitioner submits that as per the provisions of Section 22(c), (d) and (e) of the Legal Services Authorities Act, 1987 (for short "the Act of 1987") the Permanent Lok Adalat cannot proceed in the matter without consent of the parties. Since the Petitioner had not given consent to proceed in

the matter, the rejection of the application is per se illegal. He has supported his arguments by referring judgment of the Hon'ble Apex Court in case of United India Insurance Co. Ltd. Vs. Ajay Sinha and Another, and also the judgment of this Court in the case of Popular Carriers v. the Chairman Permanent Lok Adalat (S.B. Civil Writ Petition No. 1433/2006) decided on 10.04.2008.

5. It is further submitted that even Petitioner is not ready and give consent for settlement of dispute between the parties rather Petitioner is not inclined to participate for conciliation of the dispute. Accordingly, a challenge on the aforesaid ground has been made.

6. I have considered the submissions made by learned Counsel for Petitioner and scanned the matter carefully.

7. Perusal of the order reveals that after service of notice, Petitioner made an application raising objection of the jurisdiction of the Permanent Lok Adalat. It was precisely on the ground that a consent has not been given to the Permanent Lok Adalat to proceed in the matter. The application was dismissed after holding that no such consent is required. As per the provisions of the Act of 1987, what is required is to first make an endeavour to amicably settle the matter and if agreement is arrived at between the parties, to pass order accordingly. In case of failure to settle, to decide the dispute. In the instant case, learned Counsel for Petitioner candidly made a statement that Petitioner is not inclined even to participate for conciliation of dispute. This is in absence of his consent. According to him, consent is required even to take up the matter for conciliation.

8. I have considered the aforesaid submissions in the light of the provisions referred to above. It would be gainful to quote provisions of Section 22C, 22D and 22E of the Act of 1987 for ready reference:

22C. Cognizance of cases by Permanent Lok Adalat -

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under Sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent Lok Adalat under Sub-section

(1),

it--

(a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(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 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 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.

22D. Procedure of Permanent Lok Adalat - The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and

other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908(5 of 1908) and the Indian Evidence Act, 1872(1 of 1872).

22E. Award of Permanent Lok Adalat to be final - (1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

9. Perusal of the provisions quoted above shows that Permanent Lok Adalat will first try to conciliate the matter and if any agreement is arrived at between the parties, to pass the order accordingly. In case, no agreement is arrived at then to adjudicate the matter in view of provision of Section 22C(8). There is no condition to seek consent of the parties for conciliation and in case of failure of settlement, to decide the matter. In fact proceedings for conciliation starts after getting written statement of other party. In this case, Petitioner did not file written statement, but maintained application, questioning the jurisdiction of the Court and now learned Counsel for Petitioner refused to participate even in the conciliation proceedings. It is mainly on the ground that without consent of the parties, even conciliation proceedings cannot be undertaken. The argument raised aforesaid cannot be accepted as is not coming out from provisions of the Act of 1987.

10. So far as the judgment of the Hon'ble Apex Court in the case of Union India Insurance Company Ltd. (Supra) is concerned, it is held that Permanent Lok Adalat should exercise its power with due care and caution. It must not give an impression to any of the disputants that it, from very beginning has an adjudicatory role to play in relation to its jurisdiction. Para 41 of the said judgment has been referred by learned learned Counsel for Petitioner, thus is quoted hereunder:

41. We must guard against construction of a statute which would confer such a wide power in the Permanent Lok Adalat having regard to Sub-section (8) of Section 22C of the Act. The Permanent Lok Adalat must at the outset formulate the questions. We, however, do not intend to lay down a law, as at present advised, that Permanent Lok Adalat would refuse to exercise its jurisdiction to

entertain such cases but emphasis that it must exercise its power with due care and caution. It must not give an impression to any of the disputants that it, from very beginning has an adjudicatory role to play in relation to its jurisdiction without going into the statutory provisions and restrictions imposed hereunder.

11. If the case in hand is looked into, then Permanent Lok Adalat has not shown its inclination to adjudicate the matter. In fact, the order under challenge was passed when Petitioner made an application challenging the jurisdiction of the Permanent Lok Adalat. This is precisely in absence of consent of the Petitioner. The Court dealt with the issue accordingly and referring to the provisions, came to the conclusion that no consent is required. On Dismissal of the application now Permanent Lok Adalata will proceed in the matter as per law. It will first take up the matter for conciliation so that if parties arrived at a compromise, the order can be passed accordingly. Though, from the statement of learned Counsel for Petitioner, it is clearly coming out that Petitioner is not inclined to participate in the conciliation proceedings. The aforesaid attitude of the Petitioner is not in conformity to the provision of the Act of 1987 rather such an attitude of the Petitioner has to be deprecated. In view of the aforesaid, Judgment referred to above has no application.

12. Looking to the provisions of the Act of 1987, I do not find any error in the impugned order.

13. So far as the judgment in the case of Popular Carriers (Supra) is concerned, para 6 of the aforesaid judgment provides that Permanent Lok Adalat should first undertake the process for amicable settlement of dispute. There cannot be a dispute on the aforesaid preposition. In fact, it is coming out from bare perusal of Section 22C of the Act of 1987 itself. The difficulty is that Petitioner is not even inclined to participate in the conciliation proceedings. If the provisions of Section 22C is looked into, the conciliation proceedings are to be started after getting written statement of the party. Petitioner has not even submitted his written statement. In the light of aforesaid, though I agree with the preposition laid down by the Coordinate Bench in the case of Popular Carriers but it has no application in the facts of this case. Challenge to the impugned order is nothing but gross abuse of the process.

14. The writ petition is dismissed, accordingly in limini.