
(2008) 04 RAJ CK 0054
In the Rajasthan High Court

Popular Carriers	Vs	APPELLANT
The Chairman, Permanent Lok Adalat and Others		RESPONDENT

Date of Decision : 10-04-2008

Acts Referred:

Legal Services Authorities Act, 1987 — Section 22C

Citation : (2008) 04 RAJ CK 0054

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vineet Kothari, J.—This writ petition is directed against the order of Permanent Lok Adalat Annex.3 dated 4.2.2006 on an application filed by the National Insurance Company against M/s Popular Carriers, the present petitioner.

2. By this order, the Permanent Lok Adalat directed the respondent No. 1, M/s Popular Carriers, the present petitioner to pay a sum of Rs. 1,17,537/- with interest at the rate of 9% per annum from 27.11.2001.

3. The learned Counsel for the petitioner submits that the Permanent Lok Adalat has failed to undertake any process for settlement between the parties which was the mandatory duty cast upon the Permanent Lok Adalat in terms of Section 22C(5) of the Legal Services Authorities Act, 1987.

4. Mr. Sanjeev Johari on the side opposite submits that the petitioner was given full opportunity by the Permanent Lok Adalat in the matter and on the other hand he has admitted his fault of non- delivery of goods to the consignee vide Annex.R/2/3, letter dated 5.2.2001 of the petitioner addressed to the consigner M/s Mundewala Industries, Sri Ganganagar.

5. I have heard learned Counsels and perused the record.

6. The documents relied on by the learned Counsel for the respondents Mr. Sanjeev Johari is the letter addressed by the petitioner to the Consignor M/s

Mundewala Industries in which he has stated that the goods booked by him on 11.1.2001 namely 335 bags of wheat weighing 167 quintal 50 kg under bill No. 285 of Rs. 1,17,368/- sent by truck No. RJ 13 G-1369 has not reached the consignee M/s Sankal Chandra Pukhraj, Sumerpur. The petitioner therein further stated that the consignor has informed them that truck has not reached his destination and after enquiry by the petitioner, it was found that the truck owner was a fraud and the goods in transit were not delivered to the consignee on the destination and, therefore, the said non-delivery certificate was being issued by the petitioner firm. The mere giving of a non-delivery certificate by the petitioner, the transporter does not necessarily mean that he has admitted his liability to pay the amount of the bill in question under which the goods were being sent by the transporter. Since the respondent - National Insurance Company approached the Permanent Lok Adalat by way of application u/s 22C of the Act being a public utility services which it could do so, however, it was obligatory on the part of the Permanent Lok Adalat to first undertake the process for amicable settlement of dispute in an independent and impartial manner. Sub-section (5) of Section 22C mandates as under:

226(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.

7. Though Sub-section (8) of Section 22C permits the Permanent Lok Adalat, where the parties fail to reach at an agreement under Sub-section (7), to decide such dispute, if such dispute does not relate to any offence, that enabling power does not absolve the Permanent Lok Adalat constituted under the aforesaid Act to undertake first the procedure for amicable settlement between the parties and despite such effort if the parties fail to arrive at a compromise or settlement, then such Permanent Lok Adalat has been given power to decide such dispute under Sub-section (8).

8. Recently the Hon"ble Supreme Court in State of Punjab and Another Vs. Jalour Singh and Others, in the judgement dt.18th January, 2008 by a Bench headed by Hon"ble C.J.I. held as under:

Many sitting or retired Judges, while participating in the Lok Adalats as members, tend to conduct the Lok Adalats like courts, by hearing parties, and imposing their views as to what is just and equitable, on the parties. Sometimes they get carried away and proceed to pass orders on merits, as in this case, even though there is no concensus or settlement. Such acts, instead of fostering alternative dispute resolution through the Lok Adalats, will drive the litigants away from the Lok Adalats. The Lok Adalats should resist their temptation to pay the part of judges and constantly strive to function as conciliators. The endeavour and effort of the Lok Adalats should be to guide and persuade the parties, with reference to principles of justice, equity and fair play to compromise and settle the dispute by examining the pros and cons, strengths and weaknesses, advantages and disadvantages of their respective claims.

The order of the Lok Adalat in this case (extracted in para 3), shows that it assumed a judicial role, heard parties, ignored the absence of consensus, and increased the compensation to an extent it considered just and reasonable, by a reasoned order which is adjudicatory in nature. It arrogated to itself the appellate powers of the High Court and "allowed" the appeal and "directed" the respondents in the appeal to pay the enhanced compensation of Rs. 62,200 within two months. The order of the Lok Adalat was not passed by consent of parties or in pursuance of any compromise or settlement between the parties. Such an order is not an award of the Lok Adalat. Being contrary to law and beyond the power and jurisdiction of the Lok Adalat, it is void in the eye of the law.

9. A perusal of impugned order Annex.3 dated 4.2.2006 indicates that no such efforts were made by the Permanent Lok Adalat and it acted rather like a Court of law and on the basis of material available before it, decreed the said amount against the petitioner transporter deciding the dispute itself without making any effort for amicable settlement between the parties.

10. In the absence of mandatory procedure envisaged u/s 22C(5) having been undertaken by the Permanent Lok Adalat, the impugned order cannot be sustained and is liable to be set aside.

11. Accordingly, this writ petition is allowed and the impugned order Annex.3 dated 4.2.2006 is quashed and set aside. No order as to costs.