
(2000) 01 MP CK 0039
In the Madhya Pradesh High Court
Case No : F.A. No. 167 of 1988

Punjab National Bank

APPELLANT

Vs

Laxmichand Rai and Others

RESPONDENT

Date of Decision : 27-01-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96
Legal Services Authorities Act, 1987 — Section 21(2), 25

Citation : AIR 2000 MP 301 : (2001) ILR (MP) 209 : (2000) 2 MPHT 25 : (2000) 3 MPLJ 232

Hon'ble Judges : P.N.S. Chauhan, Acting C.J.; A.K. Mishra, J

Bench : Division Bench

Advocate : J.P. Sanghi, for the Appellant; A.S. Jha, for the Respondent

Final Decision : Dismissed

Judgement

D.P.S. Chauhan, Ag. C.J.

The Punjab National Bank filed a suit (C.S. No. 15-A/87), in the Court of Additional District Judge, Seoni, against six defendants for recovery of an amount of Rs. 1,00,949.50 paise on account of loan advanced to them on 13-10-1980.

A written statement was filed by the defendants denying the plaint allegations. However, on 17-4-1988 the matter was referred to the Lok Adalat constituted under the Legal Services Authorities Act, 1987. The plaintiff and the defendants agreed to the reference on specific condition that the entire claim be decreed and in regard to the interest pendente lite and instalments, the matter was left to the discretion of the Lok Adalat. The statement of Manager of the plaintiff-Bank K. K. Awasthi (P.W.1) was recorded, who stated that the Bank would agree with the compromise provided the entire claim is decreed with pendente lite interest. The compromise arrived at before the Lok Adalat contains the signature of Shri K. K. Awasthi, Bank Manager. Consequent upon the compromise, the Additional District Judge, Seoni passed an order on 17-4-1988 and in para 10 of the order, the

following direction was passed, which is as extracted below :

10 && rnkuqlkj oknh ds i{k esa vkSj izfrokn x.k ds fo:) fM?h ikfjr djrs gq;s vkns"k fn;k tkrk gS fd izfrokn x.k la;qDr ,oa O;fDrxr :i ls nkns dh dqy jkf"k 100149&00 :i;k vnk djsaxs vkSj fnukad 21&4&88 rd muds }kjk 15000&00 :i;k ? iUnzg gtkj :i;k? dh jkf"k vnk@tek dj fn;k tkus ij N% gtkj :i;k vFkZ okf"kZd ;k N% ekgh fdLr cUnh ls os cdk;k jkf"k vnk dj ldsaxsA ftldh izFke fdLr twy lu 88 rd ,oa f}rh; fdLr 15 tuojh lu 89 rd vnk dh tk;sxh o blh izdkj cdk;k jkf"k os lEiw.kZ nkok vnk gksrs rd fdLr cUnh ls vnk djrs tk;saxsA le;&of/k ds vanj dksbZ Hkh nks fdLr vnk

;k tek ugha fd;s tkus dh fLFkfr esa lEiw.kZ cdk;k jkf"k cSad C;kt nj ls ,d eq"r olqy dj ikus dk oknh vf/kdkjh gksxk vU;Fkk nkok izLqr djus dh rkjh[k ls rkonk;h rd ewy dtZ dh cdk;k jkf"k ij 10 izfr"kr okf"kZd dh nj ls izfrokn x.k lk/kkj.k C;kt vnk djsaxsA vkns"kkuqlkj nkok ugha fd;s tkus ij n`f"Vca/kd lEifRr uhyke dj mlls vkSj vU; lEifRr ls oknh nkok olwy djus dk vf/kdkjh gksxkA izfrokn x.k Lo;a ds vykok oknh dk okn O;; Hkh ogu djsaxsA

The Additional District Judge also directed that the plaintiff was entitled for refund of Court-fee amount to the tune of Rs. 8240/- in accordance with provisions of Section 2(1) of Legal Services Authorities Act, from the State Government. This order/ decree is a subject matter of challenge at the behest of the Bank by means of the First Appeal filed u/s 96 of the Civil Procedure Code.

Heard the learned counsel for the appellant and learned counsel for the respondents, learned counsel for the appellant submitted that firstly, the appellant/ plaintiff never agreed for instalment and secondly the claim though decreed in full the trial Court granted instalment of Rs. 6000/-every half yearly reducing the interest pendente lite and future at the rate of 10% per annum and this grant of lesser rate of interest is bad.

Learned counsel for the respondents submitted that it is a compromise decree and the compromise was effected before the statutory body of Lok Adalat constituted under the Legal Services Authorities Act, 1987 (for brevity hereinafter referred to as "the Act"), it is a central legislation of a special character, it provides that the Lok Adalat has a jurisdiction to determine and arrive at a compromise or settlement between the parties to a dispute in respect of any case pending before the Court or any matter which is falling within the jurisdiction of and is not brought before any Court for which Lok Adalat is organised. Section 20(3) of the Act provides that where any case is referred to a Lok Adalat under Sub-section (1) or where a reference has been made to it under Sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties and every Lok Adalat shall, while determining any reference before it under this Act, with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles. Section 21 deals with the award of Lok Adalat and it says that "every

award of the Lok Adalat shall be deemed to be a decree of a Civil Court, or as the case may be, an order of any other Court and where a compromise or settlement has been arrived at, by Lok Adalat in a case referred to it under Sub-section (1) of Section 20, the Court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870. It further says that every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any Court against the award."

Sub-section (2) of Section 21 of the Legal Services Authorities Act, 1987 reads as under :

"21. Award of Lok Adalat :

(1)

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any Court against the award."

Section 22 contains the powers of Lok Adalat and reads as under:

"22. Powers of Lok Adalat :

(1) The Lok Adalat shall, for the purpose of holding any determination under this Act, have the same powers as are vested in a Civil Court under the CPC 1908, while trying a suit in respect of the following matters, namely :

(a) the summoning and enforcing the attendance of any witness and examining him on oath,

(b) the discovery and production of any documents,

(c) the reception of evidence on affidavits,

(d) the requisitioning of any public record or document or copy of such record or document from any Court or office and

(e) such other matters as may be prescribed.

(2) Without prejudice to the generality of the powers contained in Sub-section (1), every Lok Adalat shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.

(3) All proceedings before a Lok Adalat shall be deemed to be Judicial proceedings within the meaning of Secs. 193, 219 and 228 of the Indian Penal Code and every Lok Adalat shall be deemed to be a Civil Court for the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973."

The Legal Services Authorities Act, 1987 has been enacted to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society, to ensure that opportunities for securing Justice are not denied to any citizen by reason of economic or other disabilities and to organise Lok Adalats to secure that the operation of the legal system promotes justice on

a basis of equal opportunity.

In furtherance of the aims and objects as mentioned above, National Legal Service Authority has been constituted as per Section 3. Functions of the Central Authority, i.e. the National Legal Service Authority constituted u/s 3, have been specified in Section 4. One of the functions is to encourage the settlement of disputes by way of negotiations, arbitration and conciliation. Intentment is to provide legal aid, to implement legal aid programmes, to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens, and to spread legal literacy and legal awareness amongst weaker sections of the society. The idea is to see that litigation comes to an end by way of mutual conciliation, arbitration and negotiations. In the said context it is to be considered whether finality once reached in Lok Adalat should be allowed to be challenged by way of filing an appeal against the said decision. The provision has been made in the Act itself u/s 21(2) that no appeal shall lie to any Court against the award made by Lok Adalat. The award shall be final and binding on all parties to the case. If the submission of the learned counsel for the appellant is accepted, then no finality shall be attached to the award made by the Lok Adalats. Parties arrive at a consensus that entire sum be decreed and the rate of interest and number and period of instalments are left to the Court's discretion. This discretion exercised by the Court also forms part of the consensus reached between the parties and the award so made on the basis of such a consent attains finality under the provisions of Section 21(2) of the Legal Services Authorities Act.

The present appeal has been filed under the provisions of Section 96 C.P.C. It has to be examined whether such an appeal is maintainable under the provisions of Section 96 of the C.P.C. Section 25 of the Legal Services Authorities Act provides a non obstante clause and gives the Act an overriding effect on any other law. Section 25 of the Act runs as under :

"25. Act to have overriding effect :--The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."

This provision of the Act shall prevail in the matter of filing an appeal and an appeal would not lie under the provisions of Section 96 C.P.C. Lok Adalat is conducted under an independent enactment and once the award is made by a Lok Adalat the right of appeal shall be governed by the provisions of the Legal Services Authorities Act. When it has been specifically barred under provisions of Section 21(2), no appeal can be filed against the award u/s 96 C.P.C.

"Lok Adalat" has been defined in Section 2(d) of the Act according to which "Lok Adalat" means a Lok Adalat organised under Chapter VI. Section 19 provides for organisation of Lok Adalats which states that every State Authority or District Authority or the Supreme Court Legal Service Committee or every High Court

Legal Services committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such Intervals and places and for exercising such jurisdiction and for such areas as it thinks fit. u/s 19(5), Jurisdiction of the Lok Adalat has been provided. Section 19(5) reads as under ;

"(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of -

(i) any case pending before or

(ii) any matter which is falling within the jurisdiction of and is not brought before any Court for which the Lok Adalat is organised.

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compound-able under any law."

Cognizance of case by Lok Adalat is provided u/s 20 of the Act. For taking cognizance of cases by Lok Adalats, it is necessary that the parties to the Us agree, or one of the parties makes an application to the Court for referring the case to the Lok Adalat for settlement and if such Court is prima facie satisfied that there are chances of such settlement; or (2) the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the Court shall refer the case to the Lok Adalat. A reasonable opportunity of being heard has to be provided before referring the case to the Lok Adalat. Under Sub-section (2) of Section 20, on receipt of an application from any one of the parties, after giving a reasonable opportunity of being heard to the other party, the matter can be referred to the Lok Adalat. Function of the Lok Adalat is provided u/s 20(3) which runs as under :

"3. Where any case is referred to a Lok Adalat under sub-sec.(1) or where a reference has been made to it under Sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties."

It may be seen that in the instant case compromise was reached between both the parties and dispute was referred to Lok Adalat by agreement of both the parties. Both parties had also agreed to pass an award and had entered appearance along with counsel. Thus in terms of the compromise award was passed by the Lok Adalat.

Lok Adalats have been conferred power of the Civil Court under the C.P.C. in respect of matters such as summoning and enforcing the attendance of any witnesses and examining him on oath, discovery and production of any documents, reception of evidence on affidavits, requisitioning of any public record or document or copy of such record or document from any Court or office and such other matters as may be prescribed. It cannot be said that by implication appeal u/s 96 C.P.C. would lie against the award of Lok Adalat, in view of the fact that there is specific prohibition contained in Section 21(2) of the Act. We are of the view that the provisions of Section 96 C.P.C. are not applicable

to file an appeal against the award of Lok Adalat.

It may incidentally be further seen that even the CPC does not provide for an appeal u/s 96(3) against a consent decree. The CPC also intends that once a consent decree is passed by civil Court finality is attached to it. Such finality cannot be permitted to be destroyed, particularly under the legal services Authority Act, as it would amount to defeat the very aim and object of the Act with which it has been enacted, hence, we hold that the appeal filed is not maintainable.

In view of the above, the appeal is incompetent and is hereby dismissed.