(2014) 08 P&H CK 0240

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 14697 of 2014 (O&M)

Punjab National Bank APPELLANT

Vs

Suresh Kumar Nagpal RESPONDENT

Date of Decision : 01-08-2014

Acts Referred:

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

Citation : (2014) 175 PLR 856

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : R.S. Bhatia, Advocate for the Appellant

Final Decision : Dismissed

Judgement

K. Kannan, J.—The petition is a challenge by the bank to an order passed by the Permanent Lok Adalat upholding a claim by the depositor who stated that he and his wife held a Fixed Deposit Receipt (FDR) for Rs. 10,000/- with the respondent-bank at Faridabad. He had given the details of the deposit number and the date of deposit. His joint holder, his wife had died on 10.5.1996 and he had filed a petition claiming the amount stating that after the initial expiry of the period of deposit, he had allowed for extension on an assurance given by the banker that it would stand automatically extended and there was no further need for taking a fresh deposit. The case was brought before the Permanent Lok Adalat. The bank took a plea that the original record has been weeded out and it was most likely that the amount had been re-paid by the bank to the depositors. The bank relied on certain circular to show that it was not necessary for them to retain the deposit that had matured for more than 10 years and since the transaction relied on a deposit which was made more than 20 years back, it was not possible for them to secure the details of the actual encashment by the depositor himself.

2. The Permanent Lok Adalat in its order has observed that every effort was made for amicable settlement between the parties but no amicable settlement could be arrived at. The Permanent Lok Adalat has further observed that it has

proceeded to decide the petition on merits and required the parties to adduce evidence in support of the respective averments. In this case, the order passed by the Permanent Lok Adalat reveals that the respondent had tendered his affidavit, copy of the FDR and the death certificate of his wife to show his entitlement. The senior Manager of the bank has also given his evidence and filed the copy of the circular and the copies of the statement and copy of muster listing of the FD accounts, transfer from manual system to computer system. The Permanent Lok Adalat has observed that the bank ought to have the details of the FDR, which was specifically spelt out in Ex. P.2, a plea that the amount must have been paid cannot be inferred by the only fact that the documents were not available to show that the FDR amount was still outstanding. The Permanent Lok Adalat, therefore, passed the award for the amount set forth in the FDR with interest.

3. Learned counsel for the petitioners-bank argues that the Permanent Lok Adalat did not have the jurisdiction to decide the issue whenever there was a dispute. The power to directly decide the case would run counter to the scheme of the Lok Adalat which promotes decision on mutual settlement between the parties. The counsel would rely on a decision of this court in Reliance General Insurance Company Limited Versus Vijay Kumar and another reported in AIR 2012 (Punjab & Haryana) 58 to state that if a Lok Adalat is approached u/s 22C at pre-litigative stage in relation to public utility services and the parties dispute the claim that it was bogus, it would mean that case involves disputed questions of facts and law and cannot be settled by the intervention of the Lok Adalat.

4. In my view, the proposition, as stated, seems too wide for application to the present facts of the case. The settlement is all times is a desirable goal, for, it puts to an end to litigation and takes a case out of the system with no prospect of being challenge in higher tiers of the adjudicatory bodies. The Legal Services Authority Act 1987 introduced Chapter VIA, contemplates several situations and provides for a process of how the settlement shall be arrived at by initiating proceedings for conciliation between the parties. Sub-clause (3) of Section 22C sets out the preliminary stage of directing the parties to file written statement. Sub-clause (4) exhorts the Permanent Lok Adalats to conduct conciliation proceedings between the parties in a manner it thinks fit. Clause (5) sets out the process in that it directs that the parties shall be assisted in their attempt to reach an amicable settlement. Clause (6) underscore the duty of every party in the application to cooperate in good faith with the Permanent Lok Adalats and sub-clause (7) states that if there was an element of settlement in such proceedings, the Permanent Lok Adalats shall pass an award in terms of such settlement. Clause (3) to (7) will, therefore, details various stages of settlement which parties may secure to themselves with the active assistance of the Lok Adalats. Clause (8) is residual power granted to the Permanent Lok Adalats. Clause (8) states that where the parties fail to reach an agreement, the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute. The decision in dispute is made under a procedure which is

contemplated u/s 22D. Section 22D of the Act reads as under:-

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).

5. The said provision will reveal that the Lok Adalats will be guided by the principles of natural justice, fair play and equity; elements which are too well understood in any legal proceedings. The element of fair play is that both the parties are allowed opportunities to tender their evidence and allow also the benefit of cross-examination. Arguments could be advanced or the Lok Adalat may itself direct the parties to present the case in such a way as it thinks fit. After following the procedure u/s 22D, an award which is passed is rendered finally by virtue of Section 22E. If the argument which is advanced by the learned counsel is to be accepted, we will come to a situation rendering the institution meaningless and it will defeat the very purpose of the Act for consigning every act to issue on public utility service to be brought to the corridors of regular courts on the slightest whimper of protest by a respondent not to be willing to accept the complainant''s claim.

6. The observations made by the Permanent Lok Adalat, as found in paragraph 3 of the award that every effort was made to settle the matter and since such settlement did not take place and the Lok Adalat proceeded to allow the party to file their affidavits and submit the documents and the Lok Adalat consisting of three members were impressed that the depositors who had deposited the money had not claimed return of the same, it had reason to believe such evidence placing onus on public sector undertaking in its failure to show that any amount had been actually paid.

7. The case of re-payment and discharge under the fixed deposit as an aspect of conjecture which the bank wanted the Lok Adalat to make, namely, that if a computer data did not reveal the name of the depositor/respondent as a person in whom name the amount was outstanding it means it must be have been paid. The Permanent Lok Adalat was not impressed nor am I.

8. Before parting, I must remind that proceedings before Permanent Lok Adalat are different from Lok Adalats constituted by the State District or Taluk Legal Services Authority for settlement. Though the ultimate decision in both situations yielding to an award is an enforceable decree, the Permanent Lok Adalat has a power to record evidence and render an adjudication on merits, even if there is no consensus between parties. The Lok Adalats constituted by Legal Services Authority through its control, State, District or taluk committees have always to secure awards only on consensus. In other words, the award of Permanent Lok Adalat could be both consensual and non-consensual, while the award by the other Lok Adalats could only be consensual.

9. There is no error in the jurisdiction exercised by the Permanent Lok Adalat and I do not find it to be a fit case for allowing the party to challenge finality which Section 22E grantee.

10. The writ petition is dismissed as wholly vexatious by a public sector bank and an attempt to browbeat course of justice.

