
(2006) 07 CAL CK 0037
In the Calcutta High Court
Case No : C.O. No. 3163 of 2005

Rita Kumari Shahu @ Saha

APPELLANT

Vs

Shyam Sundar Shahu

RESPONDENT

Date of Decision : 07-07-2006

Acts Referred:

Constitution of India, 1950 — Article 227
Legal Services Authorities Act, 1987 — Section 22A, 22B, 22B(1)

Citation : (2007) 1 CALLT 536 : (2007) 1 CHN 578

Hon'ble Judges : Arun Kumar Bhattacharya, J

Bench : Single Bench

Advocate : B.K. Banerjee, Shila Sarkar and Arnab Roy, for the Appellant;None, for the Respondent

Final Decision : Allowed

Judgement

Arun Kumar Bhattacharya, J.—In this application under Article 227 of the Constitution of India the petitioner has prayed for revision of the order dated 10.04.2005 passed by the learned Judge, Permanent Lok Adalat, Uttar Dinajpur in Pre-litigation Case No. 79/2005.

2. The circumstances leading to the above application are that the marriage of the petitioner with the O.P. was solemnized on 14.12.2003 according to Hindu rites and customs. She was subjected to ill-treatment and torture by the O.P. who by coercion and undue pressure obtained her signatures on a purported petition and filed the same before the District Legal Services Authority, Uttar Dinajpur at Raiganj on 05.04.2005 when it was registered as Pre-litigation Case No. 79/2005 and was transferred to the Permanent Lok Adalat at Raiganj which passed an award on 10.04.2005 declaring the marriage between her and the O.P. dissolved by a decree of mutual divorce. The petition was drafted in Bengali, but the petitioner cannot read, write, speak and understand Bengali, nor the contents of the purported petition were read over and explained to her. The conditions for making application for mutual divorce under the Hindu Marriage

Act, 1955 were not fulfilled nor the matrimonial matters can be a subject of pre-litigation case. As such, the award passed by the Permanent Lok Adalat, Uttar Dinajpur being void ab initio is not sustainable in law.

3. Being aggrieved by, and dissatisfied with, the said award, the petitioner has come up before this Court.

4. As none appeared for the O.P., the matter was heard ex parte.

5. Mr. Banerjee, learned Counsel for the petitioner, assailed the impugned order contending that a Permanent Lok Adalat in a pre-litigation conciliation and settlement proceeding has no jurisdiction u/s 22B read with action 22A(b) of the Legal Services Authorities Act, 1987 to entertain and pass an award of mutual divorce under the provisions of the Hindu Marriage Act, 1955 and as such the impugned order being void ab initio should be set aside. Mr. Banerjee further contended that the petitioner who was forced to sign the petition, was not given any opportunity to place her case.

6. Sub-section (1) of Section 22B of the Legal Services Authorities Act, 1987, which deals with pre-litigation conciliation and settlement and starts with a non-obstante clause speaks of establishment of Permanent Lok Adalats for exercising jurisdiction in respect of one or more public utility services for such areas as may be prescribed in the notification. The "Public Utility Service" within the definition of clause (b) of Section 22A of the said Act means any-

(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,

and includes any service which the Central Government or the State Government, as the case may be, may, in the public interest, by notification, declare to be a public utility service, for the purpose of this chapter.

7. A glance to the above provision will reveal that the jurisdiction of Permanent Lok Adalat is confined only to public utility service as defined above and not to any other matter. So, matrimonial dispute being not a public utility service, the Permanent Lok Adalat had no jurisdiction to entertain and dispose of the dispute by passing the impugned order of mutual divorce.

8. Accordingly, the award being void, the revisional application be allowed ex parte and the impugned order be set aside.

9. Let a copy of this order be sent down at once to the learned Court below.
10. Urgent xerox certified copy of this order, if applied for by the petitioner, be supplied to the petitioner with utmost expedition.