

(2017) 05 KL CK 0013
In the High Court Of Kerala
Case No : 2536 of 2016 (O)

Santhosh C

APPELLANT

Vs

S.N.D.P Branch No. 245, Vandanam

RESPONDENT

Date of Decision : 22-05-2017

Acts Referred:

Constitution of India, Article 226, Article 227 - Power of High Courts to Issue certain writs - Power of superintendence over all courts by the High Court
Legal Services Au

Citation : (2017) 05 KL CK 0013

Hon'ble Judges : A. Muhamed Mustaque

Bench : SINGLE BENCH

Advocate : S. Sanal Kumar, Bhavana Velayudhan, T.J. Seema, K. Gopalakrishna Kurup, K. Suresh, Deepthi S. Menon, T.R. Rajesh, A.N. Rajan Babu, M.I. Johnson, Suraj Kumar, V.V. Asokan, V.D. Balakrishna Kartha

Judgement

1. This original petition is filed, challenging the execution proceedings initiated based on the award of the Legal Services Authority under Article 227 of the Constitution.
2. Though proceedings under Article 227 are maintainable as against the proceedings before the execution court, the petitioners cannot challenge an award along with the proceedings under Article 227 of the Constitution. The petitioners rely upon the judgment of the Chhattisgarh High Court in Suryakant Naidu v. Amit Kumar (2016 KHC 3584), wherein it was held that the award of the Legal Services Authority can be challenged invoking Article 227. Allahabad High Court also taken a similar view in Shashi Prateek (Dr.) v. Charan Singh Verma & Another [2009 KHC 6345] that the award passed by the Lok Adalat can be interfered with invoking Article 227 of the Constitution.
3. Lok Adalats are being organized by the State Authority or the District Authority or the Taluk Legal Services Committee as the case may be. Lok Adalats

are held at such intervals and places as the authorities decide. Section 19 of the Act refers to organization of Lok Adalats. Jurisdiction of the Lok Adalat is to arrive at a compromise or settlement between the parties. Section 20 of the Legal Services Authorities Act sets out the procedure to be followed by the Lok Adalat.

4. I am not able to follow the dictum of Chhattisgarh High Court or Allahabad High Court for the obvious reason that "Lok Adalat" would not fall within the meaning of court or tribunal as referred under Article 227 of the Constitution. Lok Adalat becomes functus officio, the moment it discharges its duties and functions. It is to be noted that "tribunal," as referred in Article 227, is alongside of court. Therefore, it is clear that a tribunal must have the trappings of at least some functions discharged by the court. The judgments of the Hon'ble Supreme Court in *Engineering Mazdoor Sabha & Another v. Hind Cycles Ltd.* [AIR 1963 SC 874] and *State of M.P. v. Anshuman Shukla* [AIR 2008 SC 2454] fortify this view. No judicial functions are discharged by Lok Adalat constituted under Section 20 of the Legal Services Authorities Act. Section 19 of the Act explicits as to the nature of organization of Lok Adalats. On mere reading of Sections 19 and 20, it makes the position clear as to the functions discharged by Lok Adalat. I am of the considered view that the members of Lok Adalat act as "conciliators" to facilitate settlement between the parties. They cannot decide a dispute. Therefore, Lok Adalat is not an adjudicating body. If it has no power to adjudicate, it can neither be called as a tribunal nor as a court within the meaning of Article 226 of the Constitution. Therefore, the award of the Lok Adalat cannot be challenged invoking Article 227 of the Constitution. Certainly, if the Lok Adalat failed in discharging its functions in terms of statutory provisions, a writ petition would be maintainable as against the award. Since this original petition is filed under Article 227, I am not adverting to the scope of challenge under Article 226 of the constitution in this case.

5. The petitioner cannot challenge an execution petition without challenging the award of Lok Adalat in a proper manner. Therefore, leaving open the issues canvassed, the original petition is dismissed. No costs.