

Estate Officer vs Colonel H.V. Mankotia (Retired) on 7 October, 2021

Equivalent citations: AIR 2021 SUPREME COURT 4894, AIR ONLINE 2021 SC 859

Author: M.R. Shah

Bench: A.S. Bopanna, M.R. Shah

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6223 OF 2021

Estate Officer

...Appellant(s)

Versus

Colonel H.V. Mankotia (Retired)

...Respondent(s)

JUDGMENT

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned order dated 30.11.2013 passed by the High Court of Madhya Pradesh, Bench at Indore in Writ Petition No. 8074 of 2011 by which in a Lok Adalat held on 30.11.2013, the members of the Lok Adalat has entered into the merits of the writ petition and has dismissed the said writ petition preferred by the appellant on merits, the original writ petitioner has preferred the present appeal.

2. That the appellant herein filed a writ petition before the High Court being Writ Petition No.8074 of 2011.

Date: 2021.10.07 16:34:47 IST Reason:

The matter was listed on 30.11.2013 before the Lok Adalat. By the impugned order, the members of the Lok Adalat held by the High Court entered into the merits of the writ petition and dismissed the same on merits, which is the subject matter of the

present appeal.

2.1 That thereafter the appellant filed the restoration application before the High Court to restore the main writ petition submitting that the order passed in the Lok Adalat is beyond the jurisdiction of the Lok Adalat and, therefore, the same is not legal in the eyes of law. However, the said application came to be dismissed by the High Court and hence the present appeal.

3. Shri Vikramjit Banerjee, learned ASG appearing on behalf of the appellant has vehemently submitted that the impugned order has been passed in the Lok Adalat and the Lok Adalat, Madhya Pradesh High Court has considered the case on merits and dismissed the same on merits, which is wholly impermissible in view of the relevant provisions of the Legal Services Authorities Act, 1987 (hereinafter referred to as “the Act, 1987”). Shri Banerjee, learned ASG has heavily relied upon Section 19(5), Section 20(3) and Section 20(5) of the Act, 1987 in support of his submission that a Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or a settlement between the parties to a dispute and has no jurisdiction to enter into the merits of the case and decide the matter on merits, in case the settlement is not arrived at. It is submitted, therefore, that the impugned order passed by the Lok Adalat, Madhya Pradesh High Court is wholly without jurisdiction. Reliance is placed upon the decision of this Court in the case of State of Punjab and Ors. Vs. Ganpat Raj (2006) 8 SCC 364.

3.1 Learned counsel appearing on behalf of the respondent while opposing the present appeal has submitted that the matter was placed before the Lok Adalat with the consent of the learned counsel for the appellant. It is submitted that, therefore, once the matter was placed before the Lok Adalat with the consent, entire matter would be at large before the Lok Adalat and, therefore, having found no substance in the petition, the members of the Lok Adalat have rightly dismissed the writ petition, which in the facts and circumstances of the case is not required to be interfered with by this Court in exercise of power under Article 136 of the Constitution.

4. Heard the learned counsel for the respective parties at length.

5. The short question which is posed for consideration of this Court is whether in the Lok Adalat held by the High Court, was it open for the members of the Lok Adalat to enter into the merits of the writ petition and to dismiss the same on merits, in absence of any settlement arrived at between the parties?

6. While answering the aforesaid question, the relevant provisions of the Legal Services Authorities Act, 1987, which would have been a bearing on the jurisdiction of the Lok Adalat are required to be referred to, which read as under:-

“19. Organization of Lok Adalats--(1) Every State Authority or District Authority or the Supreme Court Legal Services 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.

(2) Every Lok Adalat organised for an area shall consist of such number of :-

(a) serving or retired judicial officers; and

(b) other persons, of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organising such Lok Adalats.

(3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(4) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(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 compoundable under any law.

20. Cognizance of Cases by Lok Adalats--(1) Where in any case referred to in clause (i) of sub-section (5) of Section 19-(i)

(i) (a) the parties thereof agree; or

(i) (b) one of the parties thereof 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

(ii) 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:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of Section 19 may, on receipt of an application from any, one of the parties to any matter referred to in clause

(ii) of sub-section (5) of Section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) 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. (4) Every Lok Adalat shall, while determining any reference before it under this Act, 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.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub- section (2), that Lok Adalat shall advice the parties to seek remedy in a court.

(7) Where the record of the case is returned under sub- section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1).” 6.1 As per sub-section (5) of Section 19, a Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or a 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. As per sub-section (1) of Section 20 where in any case referred to in clause

(i) of sub-section (5) of Section 19- (i) (a) the parties thereof agree; or (i)

(b) one of the parties thereof 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 (ii) 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. It further provides that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

6.2 As per sub-section (3) of Section 20 where any case is referred to a Lok Adalat under sub-section (1) or where a reference is 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. Sub-section (5) of Section 20 further provides that where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

7. Thus, a fair reading of the aforesaid provisions of the Legal Services Authorities Act, 1987 makes it clear that the jurisdiction of the Lok Adalat would be to determine and to arrive at a compromise or a settlement between the parties to a dispute and once the aforesaid settlement / compromise fails and no compromise or settlement could be arrived at between the parties, the Lok Adalat has to return the case to the Court from which the reference has been received for disposal in accordance with law and in any case, the Lok Adalat has no jurisdiction at all to decide the matter on merits once it is found that compromise or settlement could not be arrived at between the parties.

8. Identical question came to be considered by this Court in the case of State of Punjab and Ors. Vs. Ganpat Raj (supra) and after considering Section 20 of the Act, 1987, it is observed and held in paragraph 7 as under:-

“7. The specific language used in sub-section (3) of Section 20 makes it clear that the Lok Adalat can dispose of a matter by way of a compromise or settlement between the parties. Two crucial terms in sub-sections (3) and (5) of Section 20 are “compromise” and “settlement”. The former expression means settlement of differences by mutual concessions. It is an agreement reached by adjustment of conflicting or opposing claims by reciprocal modification of demands. As per *Termes de la Ley*, “compromise is a mutual promise of two or more parties that are at controversy”. As per *Bouvier* it is “an agreement between two or more persons, who, to avoid a law suit, amicably settle their differences, on such terms as they can agree upon”. The word “compromise” implies some element of accommodation on each side. It is not apt to describe total surrender. (See *NFU Development Trust Ltd., Re* [(1973) 1 All ER 135 : (1972) 1 WLR 1548 (Ch D)]). A compromise is always bilateral and means mutual adjustment. “Settlement” is termination of legal proceedings by mutual consent. The case at hand did not involve compromise or settlement and could not have been disposed of by the Lok Adalat. If no compromise or settlement is or could be arrived at, no order can be passed by the Lok Adalat. Therefore, the disposal of Civil Writ Petition No. 943 of 2000 filed by the respondent is clearly

impermissible.”

9. In view of the above, the impugned order passed by the Lok Adalat dismissing the writ petition on merits is unsustainable and deserves to be quashed and set aside. The submission made by the learned counsel appearing on behalf of the respondent that once the matter was placed before the Lok Adalat with consent, thereafter the entire matter is at large before the Lok Adalat and, therefore, the Lok Adalat is justified in disposing the matter on merits has no substance and the same is required to be rejected outright. The consent to place the matter before the Lok Adalat was to arrive at a settlement and or a compromise between the parties and not for placing the matter before the Lok Adalat for deciding the matter on merits. Once there is no compromise and/or a settlement between the parties before the Lok Adalat, as provided in sub-section (5) of Section 20, the matter has to be returned to the Court from where the matter was referred to Lok Adalat for deciding the matter on merits by the concerned court.

10. In view of the above and for the reasons stated above, the impugned order passed by the Lok Adalat, Madhya Pradesh High Court dated 30.11.2013 in Writ Petition No.8074 of 2011 is hereby quashed and set aside. The matter is remanded to the High Court to decide the Writ Petition No.8074 of 2011 on merits and in accordance with law. The Writ Petition No.8074 of 2011 is ordered to be restored to the file of the High Court for its decision on merits and in accordance with law. The present appeal is accordingly allowed. In the facts and circumstances of the case, there shall be no order as to costs.

Pending applications, if any, also stand disposed of.

..... J.
[M.R. SHAH]

NEW DELHI;
OCTOBER 07, 2021.

..... J.
[A.S. BOPANNA]