

Calcutta High Court (Appellete Side)

Punjab & Anr vs Jalour Singh & Ors.) on 31 July, 2014

Author: Mrinal Kanti Chaudhuri

31.7.2014. C. O. 3995 of 2013 Mr. Kushal Kumar Mukherjee ... for the petitioner.

Affidavit of service filed today be kept with the record.

Heard the learned Advocate for the petitioner. In spite of service, none appears on behalf of the opposite parties.

This revisional application filed by the petitioner under Article 227 of the Constitution of India is directed against an Order dated 17.11.2013 passed by Lokadalat in connection with Pre-Litigation Case No. 304 of 2013.

It is submitted by the learned Advocate for the petitioner that Lokadalat has no jurisdiction to adjudicate the matter in dispute.

It is further submitted that the jurisdiction of Lokadalat is only non-adjudicatory one.

The learned Advocate also refers to a decision reported in AIR 2008, Supreme Court 1209 (State of Punjab & Anr. V. Jalour Singh & Ors.).

It also careful perusal and scrutiny of the order dated 17th November, 2013 passed by Lokadalat at Diamond Harbour, it appears that Lokadalat passed an order directing the opposite party/petitioner of this revisional application to return the deed of gift to the petitioner opposite party (Nirmalendu Halder) as the said deed of gift was forcibly obtained by the petitioner. Furthermore, the opposite party i.e. the present petitioner was cautioned not to create any disturbance to the peaceful life of the petitioner.

On scrutiny of the impugned order, it does not transpire that the Lokadalat disposed of the matter and passed a direction on the basis of compromise or settlement. Section 20 of the Legal Services Authorities Act, 1987, clearly provides that no case shall be referred to Lokadalat under sub-clause (B) of Clause (I) and (ii) by any Court without giving an opportunity of being heard to the parties. It is further provided in the said section that if one of the parties makes an application to the court for referring the case to Lokadalat for settlement and if such Court is, prima facie, satisfied that there are chances for settlement, the Court shall refer to Lokadalat. On going through the materials on record in the light of Section 20 of the Legal Services Authorities Act, 1987, it does not transpire that the case was referred to Lokadalat on being prima facie satisfied that there are chances of settlement. It does not disclose that before referring the matter to the Lokadalat a reasonable opportunity of being heard was given to the parties. Moreover, the Hon'ble Apex Court in the decision reported in AIR 2008, SC 1209 (State of Punjab & Anr. V. Jalour Singh & Ors.) observed in Paragraph 8 of the judgment that Lokadalat has no adjudicatory or judicial functions. Their functions relate purely to conciliation. "A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance, and put its seal of confirmation by

making an award in terms of the compromise or settlement. When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the court from which the reference was received, for disposal in accordance with law. No Lok Adalat has the power to "hear" parties to adjudicate cases as a court does. It discusses the subject matter with the parties and persuades them to arrive at a just settlement".

After going through the judgment of the Hon'ble Apex Court, it transpires that Lok Adalat passed order dated 17th November, 2013 on the basis of adjudication which is noted above. Lok Adalat has no adjudicatory power save and except power of re-conciliation after persuasion. The direction given by the Lok Adalat on 17th November, 2013 violets the principles of Legal Services Authorities Act, 1987. Therefore, the order passed by Lok Adalat is without jurisdiction and suffers from illegality, impropriety. Therefore, the order passed by Lok Adalat dated November 17, 2013 is hereby set aside.

It is a fit case for adjudication before normal court of law for which the parties may take step in accordance with law.

The revisional application is therefore, allowed. There will be, however, no order as to costs. Urgent photostat certified copy of this order, if applied for, be given to the petitioner on priority basis.

(Dr. Mrinal Kanti Chaudhuri, J)