

no mistake, illegality or error in the reservation made in the earlier notification and the impugned corrigendum has been issued illegally by the Deputy Commissioner, Amritsar under political pressure and with intention to give benefit to some persons of village Hair where the reservation has been changed from the category of Scheduled Caste to General.

(16) In view of the above, this petition is allowed and the impugned corrigendum, dated 23rd June, 2008, so far as it relates to Gram Panchayat of Village Rampura, is quashed and the respondents are directed to conduct the election in accordance with law of the said Village Gram Panchayat as per the reservation made,—*vide* notification, dated 8th May, 2008.

R.N.R.

Before Hemant Gupta & Kanwaljit Singh Ahluwalia, JJ.

UNION TERRITORY, CHANDIGARH,—*Petitioner*

versus

PERMANENT LOK ADALAT AND ANOTHER,—*Respondents*

C.W.P. No. 181 of 2008

18th September, 2008

Constitution of India, 1950—Arts. 39-A & 226—Legal Services Authorities Act, 1987-S. 22—Jurisdiction of Permanent Lok Adalat—Permanent Lok Adalat ordering incorporation of name as owner of industrial plot—Dispute regarding title of plot—Civil Courts passing numerous decrees for & against parties—Permanent Lok Adalats having jurisdiction in respect of public utility services—Public utility service does not include property disputes—Dispute regarding title of property is beyond scope of Permanent Lok Adalat—Order passed by Permanent Lok Adalat set aside while granting liberty to seek remedy from an appropriate forum.

Held, that the Act has been enacted as an alternative dispute resolution for resolving the disputes in a spirit of conciliation outside

the Court. Chapter VIA has been introduced with the object that though the system of Lok Adalat is mainly based on compromise or settlement between the parties but if the parties do not arrive at compromise or settlement, the case is either returned to the Court of law or the parties are advised to seek remedy in the Court of law. To avoid unnecessary delay in the dispensation of justice, Lok Adalats were given the powers to decide the cases on merit as well. Still further, the cases of public utility service need to be settled urgently so that people can get justice and most of the petty cases which ought not to go in the regular courts may settle at pre-litigation stage. Therefore, Permanent Lok Adalat though has the power to decide the cases on merit but such decision is at pre-litigation stage and where relief claimed is urgent and in petty cases.

(Para 9)

Further held, that present is a case where there are numerous civil Court decrees for and against the parties. The decrees cannot be said to be binding on the parties which are not before the Court. Such disputes are not intended to be decided by the Permanent Lok Adalat. Permanent Lok Adalats are not alternative Courts but have been established to provide immediate relief to the aggrieved citizens against the inaction or wrongful action of the authorities dealing with public utility service in day to day life. The present dispute is beyond the scope of Permanent Lok Adalats.

(Para 9)

K. K. Gupta, Advocate *for the petitioner.*

S. S. Bains, Advocate *for the respondents.*

HEMANT GUPTA, J.

(1) The challenge in the present writ petition is to the order passed by the Permanent Lok Adalat (For Public Utility Services), Union Territory, Chandigarh, whereby the petitioner was directed to incorporate the name of respondent No. 2 as owner of Industrial Plot No. 220, Industrial Area, Phase-1, Chandigarh.

(2) The brief facts giving rise to the present writ petition are that Industrial Plot No. 220, Industrial Area, Phase-1, Chandigarh, was allotted in the name of partnership firm, namely, M/s Ashley Radio Service having two partners namely, Partap Singh, s/o Sant Singh and Ujjal Singh, s/o Partap Singh, *vide* allotment letter, dated 4th February, 1967. There are multifarious litigation in respect of the aforesaid property before the civil Court and as many as five decrees have been passed at one stage or other. The first decree is dated 2nd May, 1983 whereby with respect to the estate of Partap Singh, who died on 2nd April, 1978, and Ujjal Singh, who died on 6th December, 1976, all the legal heirs of deceased Ujjal Singh were found to be entitled to the estate. Such decree was given effect to by the petitioner on 28th November, 1983.

(3) Respondent No. 2 Balwant Singh filed a separate suit (Civil Suit No. 179 of 1986) claiming title of the plot on the basis of agreement to sell, dated 11th April, 1969. The said suit was decreed on 15th January, 1993. On 13th February, 1986, Surinder Kaur, w/o Late Ujjal Singh executed sale of 1/2 share of plot in favour of Bhupinder Singh. On the basis of said sale deed, Bhupinder Singh filed a suit (Civil Suit No. 221 of 1990) claiming title in the said plot. The said suit was dismissed on 7th February, 1990 on the ground that the sale deed is null and void on the ground of absence of permission from the Estate Office. Another suit for partition (Civil Suit No. 282 of 1988) was filed by Bhupinder Singh. The said suit was dismissed on 15th June, 1999. The appeal against the said judgment and decree was also dismissed on 10th April, 2004.

(4) A perusal of the judgment and decree in suit filed by Balwant Singh, Annexure-P-3, shows that Bhupinder Singh was not impleaded in the aforesaid civil suit though property was sold by the legal heirs of Ujjal Singh,—*vide* registered sale deed, dated 13th February, 1986. It appears that the suit was filed on 5th March, 1986 after the execution of sale deed in favour of Bhupinder Singh. Similarly, in a suit filed by Bhupinder Singh on 29th March, 1990, Balwant Singh has not been impleaded as a party though he has been impleaded as a party in a suit for partition decided on 15th June, 1999, Annexure P-5.

(5) Learned counsel for the petitioner has vehemently argued that Permanent Lok Adalats have been established in pursuance of Chapter VI-A inserted in the Legal Services Authorities Act, 1987 (for short “the Act”),—*vide* Act No. 37 of 2000 w.e.f. 11th June, 2002. Such Permanent Lok Adalats have been established for exercising such jurisdiction in respect of one or more public utility services. “Public Utility Service” 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 my service which the Central Government or the State Government, as the case may be, in the public interest, by notification, declare to be a public utility service for the purpose of this Chapter. But such public utility service does not include property disputes and maintenance of records by the Authorities. Therefore, Permanent Lok Adalat had no jurisdiction so as to pass an order of incorporation of the name of respondent No. 2 as owner of industrial plot. Learned counsel for the respondent has relied upon notification, dated 23rd October, 2003 whereby Chandigarh Administration in exercise of the powers conferred by clause (b) of Section 22-A of the Act has declared “Housing and Estates” to be public utility services in the Union Territory, Chandigarh, for the purposes of this Act.

(6) The Act was incorporated in order to achieve the objective enshrined in Article 39A of the Constitution. The Government had, with the object of providing free legal aid, by a Resolution appointed a Committee for implementing Legal Aid Scheme to monitor and implement legal aid programmes on uniform basis in all the States and Union Territories. Subsequently, it was considered desirable to constitute statutory legal authorities at the National, State and District levels so as to provide effective monitoring of legal aid programmes. For the disposal of large number of cases expeditiously and without much cost Lok Adalats have been constituted which have been functioning as voluntary and conciliatory agencies without any statutory backing for their decisions. However, the said Act was proposed to be amended

in the year 2002. The statement of Objects and Reasons, while introducing the said Bill in Parliament on 11th March, 2002, reads as under :—

1. The Legal Services Authorities Act, 1987 was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities and to organize Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity. The system of Lok Adalat, which is an innovative mechanism or alternate dispute resolution, has proved effective for resolving disputes in a spirit of conciliation outside the Courts.
2. However, the major drawback in the existing scheme of organization of the Lok Adalats under Chapter VI of the said Act is that the system of Lok Adalats is mainly based on compromise or settlement between the parties. If the parties do not arrive at any compromise or settlement, the case is either returned to the court of law or the parties are advised to seek remedy in a court of law. This causes unnecessary delay in the dispensation of justice. If Lok Adalats are given power to decide the cases on merits in case parties fail to arrive at any compromise or settlement, this problem can be tackled to a great extent. Further, the cases which arise in relation to public utility services such as Mahanagar Telephone Nigam Limited, Delhi Vidyut Board, etc., need to be settled urgently so that people get justice without delay even at pre-litigation stage and thus most of the petty cases which ought not to go in the regular courts would be settled at the pre-litigation state itself which would result in reducing the workload of the regular courts to a great extent. It is, therefore, proposed to amend the Legal Services Authorities Act, 1987 to set up Permanent Lok Adalats

for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services”.

(7) Thereafter, the Act was amended,—*vide* Act No. 37 of 2002 by inserting Chapter VIA. Certain provisions of the Act, as amended, which are relevant read as under :—

“2. Definitions : (1) In this Act, unless the context otherwise requires, —

- (a) “case” includes a suit or any proceeding before a court ;
- (aaa) “Court” means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions.

22a. Definitions :—In this Chapter and for the purpose of Section 22 and 23, unless the context otherwise requires, —

- (a) “Permanent Lok Adalat” means a Permanent Lok Adalat established under sub-section (1) of section 22B.
- (b) “public utility service” 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 include any service which the Central Government or the State Government, as the case may be, in the public interest, by notification, declare to be a public utility service for the purpose of this Chapter.

22B. Establishment of Permanent Lok Adalats.—(1)

Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

- (2) Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of —

xx xx xx xx”

22C. Cognizance of cases by Permanent Lok Adalat.—(1)

Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute :

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law :

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees :

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

- (2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.
- (3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it—
- (a) shall direct each party to the application to file before it a written statement, stating therein the

facts and nature of dispute under the application points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application ;

- (b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings ;
 - (c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.
- (4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.
- (5) **The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.** (emphasis supplied)
- (6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok

Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass any award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under subsection (7), the Permanent Lok Adalat shall, if the dispute do not relate to any offence, decide the dispute.

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)”.

(8) Learned counsel for the petitioner has vehemently argued that the disputes regarding title are not contemplated to be adjudicated upon by the Permanent Lok Adalats which have been constituted keeping in view Article 39-A of the Constitution. The Permanent Lok Adalats have the jurisdiction in respect of public utility services i.e., services which a citizen avail in his normal day to day working of life but does not include contentious issues which have to be adjudicated upon by the civil Court alone, It is contended that housing and estates is though a public utility service but it is in respect of day to day grievances of the citizens in respect of the housing projects, whereas in the present case, Permanent Lok Adalat has assumed jurisdiction in respect of title of the property. Such disputes cannot be adjudicated upon in a summary

manner. Permanent Lok Adalat is to conduct proceedings to reach an amicable settlement. The power to decide dispute under sub-section (8) is not plenary power but will take its colour from the preceding provision of Section 22C. It is also argued that Permanent Lok Adalat has the jurisdiction to entertain dispute at prelitigation stage alone.

(9) The Act has been enacted as an alternative dispute resolution for resolving the disputes in a spirit of conciliation outside the Court. Chapter VIA has been introduced with the object that though the system of Lok Adalat is mainly based on compromise or settlement between the parties but if the parties do not arrive at compromise or settlement, the case is either returned to the Court of law or the parties are advised to seek remedy in the Court of law. To avoid unnecessary delay in the dispensation of justice, Lok Adalats were given the powers to decide the cases on merit as well. Still further, the cases of public utility service need to be settle urgently so that people can get justice and most of the petty cases which ought not to go in the regular courts may settle at pre-litigation stage. Therefore, Permanent Lok Adalat though has the power to decide the cases on merit but such decision is at pre-litigation stage and where relief claimed is urgent and in petty cases. In the context of the aforesaid principle, present is a case where there are numerous civil court decrees for and against the parties. The decrees cannot be said to be binding on the parties which are not before the Court. Such disputes are not intended to be decided by the Permanent Lok Adalat. Permanent Lok Adalats are not alternative courts but have been established to provide immediate relief to the aggrieved citizens against the inaction of wrongful action of the authorities dealing with public utility service in day to day life. The present dispute is beyond the scope of Permanent Lok Adalats.

(10) Consequently, the order passed by the Permanent Lok Adalat on 22nd June, 2006, Annexure P-9, is set aside. The application filed before the Permanent Lok Adalat is dismissed giving liberty to Respondent No. 2 to seek his remedy from an appropriate forum.