

CASE NO.:
Appeal (civil) 1234 of 2007

PETITIONER:
Union of India

RESPONDENT:
Ananto (Dead) and Anr.

DATE OF JUDGMENT: 09/03/2007

BENCH:
Dr. ARIJIT PASAYAT & LOKESHWAR SINGH PANTA

JUDGMENT:
JUDGMENT

DR. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Punjab and Haryana High Court dismissing the Letters Patent Appeal, filed by the appellant - Union of India and its functionaries. By the impugned order the view expressed by a learned Single Judge was affirmed.

3. The background facts in a nutshell are as follows:

A writ petition was filed by the respondent No.1 which was numbered as Civil Writ Petition No. 1345 of 1986. When the writ petition was heard there was no appearance on behalf of the present appellant. It appears that before the writ petition was taken up for hearing by the learned Single Judge the matter was referred to Lok Adalat where an order dated 29.5.2000 was passed. Prayer in the writ petition was to appoint an arbitrator in terms of Section 8(i)(b) of the Requisition and Acquisition of Immovable Properties Act, 1952 (in short the 'Act'). In the writ petition it was stated that the land was acquired on 20.3.1970 and a notice in the form J was issued. The Notification for acquisition was published in the Official Gazette on 27.3.1970. Writ petitioner claimed to have filed an application to appoint an arbitrator on 11.4.1971. The writ petition was filed after about 16 years i.e. on 6.3.1986 praying for appointment of an arbitrator. On 29.5.2000 a direction was issued by the Lok Adalat to appoint an arbitrator. In the order it was stated that if the Union of India had any objection then an appropriate application could be filed before the High Court for fresh adjudication. On 16.8.2000 an application for recalling the order of the Lok Adalat was filed before the Lok Adalat. The earlier order was recalled and by order dated 25.9.2000 the matter was sent to the High Court for adjudication on merits. As noted above on 23.11.2000 learned Single Judge passed the order directing appointment of an arbitrator in the line of what has been directed earlier by the Lok Adalat. The Letters Patent Appeal was dismissed on the ground that when the matter is referred to Lok Adalat and when after series of discussions before the Lok Adalat and when considerable time was spent and certain terms of settlement were found reasonable by the Lok Adalat, that formed basis of order of learned Single Judge and same was perfectly in order. The appeal was accordingly dismissed.

4. The Division Bench also noted that the order of the Lok Adalat had merged into order of learned Single Judge and had therefore, become operative.

5. In support of the appeal, learned counsel for the appellant submitted that the view of the High Court is clearly untenable. Reliance is placed on a decision of this Court on Union of India & Anr. v. Munsha & Ors.,

[1995] Supp 4 SCC 660, to contend that the direction for appointment of an arbitrator was clearly untenable.

6. The matters which can be taken up by the Lok Adalat for disposal are enumerated in Section 20 of the National Legal Services Authorities Act, 1987 (in short the 'Legal Services Act") which reads as follows:

"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)(a) the parties thereof agree; or

(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 organizing 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 advise 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)."

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 *Re NFU Development Trust Ltd.* [1973] 1 All ER 135(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 Lok Adalat. If no compromise or settlement is or could be arrived at, no order can be passed by the Lok Adalat. Therefore, question of merger of Lok Adalats order does not arise.

8. Both learned Single Judge and the Division Bench failed to take note of what has been stated by this Court in *State of Punjab & Ors. v. Shri Ganpat Raj* [2006] 8 SCC 364, In the fitness of things, therefore, we remit the matter to the High Court to hear the writ petition afresh. Since the matter is pending since long, we request the High Court to dispose of the matter within four months from the date of receipt of the copy of the judgment. While doing so, the effect and relevance of judgment in *Munsha's* case (*supra*) shall be considered. It is made clear that we have not expressed any opinion on merits of the case.

9. The appeal is allowed to the aforesaid extent without any orders as to costs.