

STATE OF PUNJAB AND ORS.

A

v.

MOHINDERJIT KAUR

JANUARY 18, 2005

[ARIJIT PASAYAT AND S.H. KAPADIA, JJ.]

B

*Precedent:*

*High Court—Disposing of a writ petition relying on decision in another writ petition decided at Lok Adalat which was subject matter of challenge in Supreme Court—Supreme Court setting aside the said decision and directing the High Court to decide the writ petition—Held, since the decision relied on by the High Court has been set aside by Supreme Court, impugned judgment cannot stand—Matter to be decided by High Court afresh in accordance with law—Practice and Procedure—Lok Adalat—Cognizance of cases by.*

C

D

State Government of Punjab filed the present appeal challenging the decision of the High Court in the writ petition filed by the respondent, *inter alia*, claiming family pension from the date of death of her husband. The High Court disposed of the matter relying on *Phulan Rani's case*,\* disposed of at Lok Adalat. The Supreme Court set aside the said decision indicating as to which matters could be taken up by Lok Adalat for disposal; it restored the writ petition to its original position and directed the High Court to dispose of the writ petition.\*\*

E

Allowing the appeal, the Court

F

**HELD:** 1. The High Court has merely relied on *Phulan Rani's case* and held that merely because *Phulan Rani's case*\* was pending before the Supreme Court, there was no reason to defer the decision in the writ petition. Since the decision in *Phulan Rani's case* has been set aside\*\*, the impugned judgment cannot stand. The same is set aside and the matter is remitted to the High Court for disposal of the matter afresh in accordance with law. [580-G-H; 581-A-B]

G

*\*State of Punjab and Ors. v. Phulan Rani and Anr., CWP No. 4708 of (2002) of Punjab and Haryana High Court decided at Lok Adalat on*

A 26.5.2003, stood overruled in *State of Punjab and Ors. v. Phulan Rani and Anr.*, JT (2004) 6 SC 214.

**\*\*State of Punjab and Ors. v. Phulan Rani and Anr.**, JT (2004) 6 SC 214, relied on.

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 563 of 2005.

From the Judgment and Order dated 18.3.2004 of the Punjab and Haryana High Court in C.W.P.No. 15741 of 2003.

Ms. Naresh Bakshi for the Appellants.

C R.S. Ahaluwalia, Sanjay Sarin, Ms. Manjusha Wadhwa and Ashok Mathur for the Respondent.

The Judgment of the Court was delivered by

D **ARIJIT PASAYAT, J.** Leave granted.

The respondent filed Civil Writ Petition No. 15741/2003 before the Punjab and Haryana High Court, seeking a direction to the present appellants to allow family pension to her from the date of her husband late Shri Joginder Singh along with interest @18% from the date of accrual till the date of realization and other benefits. In support of the claim, respondent placed reliance on a decision of the High Court in the case of *State of Punjab and Ors. v. Phulan Rani and Anr.*, CWP No. 4708/2002 decided on 26.5.2003. Though it was brought to the notice of the High Court that special leave petition was filed against the High Court's order dated 26.5.2003, the High Court proceeded to dispose of the matter relying on the decision in the earlier case noted i.e. *State of Punjab and Ors. v. Phulan Rani and Anr.* It was held that the case was squarely covered by the decision in *Phulan Rani's* case (supra).

G It is to be noted that the writ petition in *Phulan Rani's* case (supra) was disposed of at the Lok Adalat and the writ petition to recall the order passed by the Lok Adalat was rejected and a review application made also met the same fate. The matter was agitated by the appellant-State before this Court contending that the writ petition could not have been disposed of at the Lok Adalat.

H This Court held that the course adopted by the High Court was not

proper. In *State of Punjab and Ors. v. Phulan Rani and Anr.*, JT (2004) 6 SC 214 it was indicated as to which matters can be taken up by the Lok Adalat for disposal. It was *inter alia* held as follows: A

“The matters which can be taken up by the Lok Adalat for disposal are enumerated in Section 20 of the Act which reads as follows:- B

“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 C

(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, D

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. E

(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: F

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

(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. H

A (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.

B (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.

C (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.

D (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).”

E 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.”

G In *Phulan Rani's* case (supra) writ petition was restored to its original position and the High Court was requested to dispose of the writ petition within a period of three months from the date of receipt of the order.

H In the instant case the High Court has merely relied on *Phulan Rani's* case (supra) and held that merely because *Phulan Rani's* case (supra) was pending before this Court, there was no reason to defer the decision in the

writ petition filed by the present respondent.

A

Since the decision in *Phulan Rani's* case (supra) has been set aside, the natural consequence is that the impugned judgment cannot stand. The same is set aside, and the matter is remitted to the High Court. It shall hear the matter afresh and dispose of the same in accordance with law. The appeal is allowed in the aforesaid terms with no order as to costs.

B

R.P.

Appeal allowed.