CHAPTER III

LOK ADALATS AND PERMANENT LOK ADALATS

1. THE CONCEPT OF LOK ADALAT

The word 'Lok Adalat' means 'People's Court' albeit it is strictly not a court in the conventional sense in as much as the Lok Adalat does not adjudicate on facts by application of law. It is a forum where disputes between the parties are resolved by conciliation and participation and what ensues finally is an amicable settlement which gets crystallized into the award of the Lok Adalat. Based on Gandhian principles, Lok Adalat is one of the most important components of the ADR system operating in India.

It may be comprehensively said that Lok Adalat is an ADR mechanism operating on indigenous lines where the ADR neutral known as the Lok Adalat Judge plays an evaluative and suggestive role and steers the disputant parties towards a negotiated mutually acceptable settlement. The whole emphasis in Lok Adalat proceedings is on conciliation rather than adjudication and the process contemplates effective participation and negotiation between the parties.

2. EVOLUTION OF LOK ADALATS

Panchayats have been a traditional forum for dispute resolution in India since times immemorial. In the modern context, Nyaya Panchayats were operating on indigenous lines even before the advent of the British system of

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1 Mohd. Asad Malik, “Concept of Alternative Dispute Resolution vis-a-vis Lok Adalat”, AIHC Journal 129 (September 2007).
Justice.\(^4\) After independence Nyaya Panchayats were reorganized, however in practice, they appeared to the villagers as formal and incomprehensible and therefore failed to live up to the expectations of the people.\(^5\) This provoked the search for better options on different lines.

The Indian Constitution aims to secure to the people of India justice – social, economic and political.\(^6\) In 1976, Article 39A was inserted into the Constitution of India,\(^7\) which unequivocally enjoins upon the State to secure that the operation of the legal system promotes justice, on the basis of equal opportunity, and in particular, to provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Thereafter in 1980 the Government of India appointed a Committee on Implementation of Legal Aid Schemes (CILAS) \(^8\) to co-ordinate the implementation of legal aid programmes,\(^9\) which inter alia recommended the establishment of Lok Adalats.\(^10\)

The evolution of contemporary system of Lok Adalats is, however, traceable to the Lok Adalat run by a noted Gandhian social worker Harivallabhb Parikh in a tribal area Rangpur in Guajrat.\(^11\) Thereafter Lok Adalats were


\(^6\) See the Preamble to the Constitution of India.

\(^7\) Inserted by the Constitution (Forty Second Amendment) Act, 1976, S. 8 (w.e.f. 03.01.1977).

\(^8\) Justice P.N. Bhagwati, was the Chairman of the Committee.

\(^9\) See http://nalsa.gov.in (last visited on 25.03.2012).


initially started in various parts of Gujarat in March 1982. During the 1980’s Lok Adalats were generally regarded as a species of legal aid programme meant specially to cater to the needs of poor and weaker sections of society and not as a viable substitute for courts.

The institution of Lok Adalats had been functioning as a voluntary and conciliatory agency without any statutory backing for its decisions and had become very popular in providing for a speedier system of administration of justice. One of the purposes of starting Lok Adalat camps was to ameliorate the judicial system qua its colossal problem of arrears, while simultaneously affording an accessible forum for expeditious and economical resolution of disputes to the litigants. What therefore followed was a demand for providing a statutory basis and framework for this institution of Lok Adalat.

This demand for affording statutory recognition to Lok Adalats and the zest to transform into reality the salutary objective and mandate of Article 39A of the Constitution of India culminated in to the enactment of the Legal Services Authorities Act, 1987. One of the objectives of the Legal Services Authorities Act, 1987 is to provide for organization of Lok Adalats to secure that the operation of the legal system promotes justice on the basis of equal opportunity. Lok Adalats have thus attained statutory recognition under the Legal Services Authorities Act, 1987.

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12 K. Ramaswamy, “Settlement of Disputes through Lok Adalats is one of the Effective Alternative Dispute Resolution on Statutory Basis”, in P.C. Rao and William Sheffield (Eds.), Alternative Dispute Resolution 93 (Universal Law Publishing Company Pvt. Ltd., Delhi, 1997)
15 The Legal Services Authorities Act, 1987 was however enforced w.e.f. 9th of November, 1995; See also Law Commission of India, 222nd Report on Need for Justice-dispensation through ADR, etc (2009).
16 Lok Adalats have also been described as preventive legal aid services within the contemplation of the Legal Services Authorities Act, 1987. See N.C. Jain, “Legal Aid, its Scope and Effectiveness of the Legal Aid Rules in this Regard”, AIR Journal 184 (1996); The Lok Adalats are also part of the campaign to take justice to the people and ensure that all people have equal access to justice. See Law Commission of India, 222nd Report, Need for Justice-dispensation through ADR etc., (2009).
3. LOK ADALATS – PRACTICES AND PROCEDURES

The Legal services Authorities Act, 1987 provides that every State/ District Legal Services Authority or the Supreme Court/ High Court Legal Services Committee may organise Lok Adalats at such intervals and such places and for exercising such jurisdiction and for such areas as it thinks fit. The Lok Adalats may comprise of serving or retired judicial officers and such other persons as may be prescribed by the Legal Services Authority/ Committee.

Any case pending before a court may be referred to a Lok Adalat if all the parties agree or if one of the parties makes an application to the court and the court is prima facie satisfied that there are chances of settlement or if the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat after giving a reasonable opportunity of being heard to the parties. Thus the court can also suo motu refer the dispute to the Lok Adalat even where the parties are reluctant, if the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat. The prime consideration which the court has to keep in mind is the existence of the possibility of a settlement. The parties however must get a reasonable opportunity of being heard before the matter is referred to the Lok Adalat, suo motu by the court. The Legal Services Authority or Committee organizing the Lok Adalat may also refer a case to the Lok Adalat on receipt of an application from any one of the parties after giving a reasonable opportunity of being heard to the parties.

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21 Commissioner, Karnataka State Public Instruction (Education), Bangalore v. Nirupadi Virbhadrappa Shiva Simpi, AIR 2001 Karnataka 504.
The Lok Adalat proceeds to dispose of the case on the basis of compromise or settlement between the parties. The source of power of Lok Adalat, which is only a forum for ADR, is conciliation and the Lok Adalat is not supposed to delve into the realm of adjudication.\textsuperscript{23} In fact the promotion of conciliation culture is one of the most important objectives of the Lok Adalat movement. The jurisdiction of Lok Adalat is therefore limited to making an effort to bring about a compromise or settlement between the parties to the dispute with their consent so that the matter is finally settled once for all.\textsuperscript{24} Conversely where there is no compromise or settlement the case cannot be disposed of by the Lok Adalat\textsuperscript{25} and in such an eventuality the case is to be returned back to the court for disposal as per law.\textsuperscript{26}

Where the matter is settled before the Lok Adalat an award is passed by the Lok Adalat on the basis of the settlement. However, the award of the Lok Adalat cannot travel beyond the compromise or settlement arrived at between the parties.\textsuperscript{27} The award of the Lok Adalat is not a judicial decision and the Lok Adalat cannot incorporate any finding, direction or stipulation in the award \textit{de hors} the settlement and the award is nothing but a formal assimilation and integration of the terms of the settlement or compromise arrived between the parties, by the Lok Adalat in the form of an enforceable order and the nature of this process of passing of the award though ostensibly judicial is in fact essentially administrative. Further every award of the Lok Adalat is final and binding on all the parties to the dispute\textsuperscript{28} and no appeal lies

\begin{itemize}
\item \textsuperscript{23} \textit{State Bank of Indore v. Balaji Traders}, 2003(3) R.C.R.(Civil) 339.
\item \textsuperscript{24} N.V. Paranjape, \textit{Public Interest Litigation, Legal Aid & Services, Lok Adalats and Para Legal Services} 282 (Central Law Agency, Allahabad, 1\textsuperscript{st} Edn. 2006).
\item \textsuperscript{25} Compromise is an agreement reached by adjustment of conflicting or opposing claims by reciprocal modification of demands. A compromise is always bilateral and means mutual adjustment. On the other hand Settlement is termination of legal proceedings by mutual consent. See \textit{State of Punjab v. Phulan Rani}, AIR 2004 SC 4105; See also \textit{Union of India v. Ananto}, AIR 2007 SC 1561.
\item \textsuperscript{26} \textit{B.P. Moideen Sevamandir v. A.M. Kutty Hassan}, 2009 (2) S.C.C. 198.
\item \textsuperscript{27} \textit{State of Punjab v. Ganpat Raj}, AIR 2006 SC 3089.
\item \textsuperscript{28} S. 21, Legal Services Authorities Act, 1987; In \textit{Rajan Kakar v. Vijaya Bank}, AIR 2008 Delhi 17 it was held that award of the Lok Adalat was final and binding between the parties and after the award fresh proceedings under the Securitisation and Reconstruction of Financial
\end{itemize}
to any court against the award. This is a very valuable and vital provision which is meant to give finality to the decision of the Lok Adalat. Even review by the court which referred the case to the Lok Adalat is not permissible. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution of India and that too on very limited grounds.

The award of a Lok Adalat is deemed to be a decree of a civil court and is per se executable. Viewed in that perspective, since every award of the Lok Adalat is deemed to be a decree of a civil court, the matter need not be referred back to the concerned court for passing of a consent decree.

Lok Adalat has the requisite powers to specify its own procedure, however, it is bound to follow the principles of natural justice, equity, fair play and other legal principles. Although it ensures minimum standards of fairness, the emphasis is more on natural justice than the rigours and

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30 Abdul Hassan and National Legal Services Authority v. Delhi Vidyut Board, AIR 1999 Delhi 88. For example the award can be set aside on grounds of fraud. See United India Insurance Co. Ltd. v. Master Imran Khan, AIR 2008 Delhi 26.

31 High Court has the power of superintendence over Lok Adalats in terms of Article 227 of the Constitution of India; See Parmod v. Jagbir Singh, 2003 (2) R.C.R.(Civil) 184.

32 State of Punjab v. Jalour Singh, AIR 2008 SC 1209; See also Commissioner of Kamataka State Public Instruction (Education) v. Nirupadi Virbhadrappa Shiva Simpi, AIR 2001 Karnataka 504 and Merlin alias Sherly Augustin v. Yesudas, AIR 2007 Kerala 199. The award of the Lok Adalat can be questioned on grounds of fraud, misrepresentation, coercion, arbitrariness, unreasonableness, denial of hearing etc.

33 In K.N. Govindan Kutty Menon v. C.D. Shaji, (2012) 2 SCC 51 it was held that the award of a Lok Adalat in a criminal case under section 138 of the Negotiable Instruments Act, 1881 could be executed as a decree of the civil court by the civil court. See also Valarmathi Oil Industries v. Saradhi Ginning Factory, AIR 2009 Madras 180 and Subhash Narasappa Mangrute v. Sidramappa Jagdevappa Unnad, 2009 (3) Mh. L.J. 857; See also K.N. Chandrasekharan Pillai, “Ensuring Equality: Role of Legal Services Authorities” available at: http://www.nja.nic.in (last visited on 01.06.2012).

34 N.V. Paranjape, Public Interest Litigation, Legal Aid & Services, Lok Adalats and Para Legal Services 282 (Central Law Agency, Allahabadd, 1st Edn. 2006).

formalities of legal procedure. A Lok Adalat has the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for summoning and enforcing the attendance of witnesses and examining them on oath, the discovery and production of any document, requisitioning of any public record, reception of evidence on affidavits, etc. and all proceedings before a Lok Adalat are deemed to be judicial proceedings. But despite this, the procedure followed by Lok Adalat is relatively simple, flexible and straightforward.

4. ADVANTAGES OF LOK ADALATS

Lok Adalats are extremely important and popular ADR fora enabling the parties to resolve their disputes by way of amicable settlements once and for all. Since the final award in a Lok Adalat is based on a mutually acceptable solution it results in a win-win situation for the parties and therefore in Lok Adalat proceedings there are no victors and vanquished and, thus, no rancour. Moreover the process of dispute resolution through Lok Adalats is a purely voluntary process.

The biggest advantage of the Lok Adalat system is however, that the award passed by the Lok Adalat is final and binding on the parties and it has the status of a decree of a civil court and can thus be executed as such through a civil court. Moreover the award of the Lok Adalat is final thereby obviating the possibility of successive appeals and thereby saving time, money and effort of the parties which can be utilized for other constructive purposes.

Another important advantage of Lok Adalats is speedy resolution of disputes. The procedure followed at a Lok Adalat is very simple and shorn of

40 In B.P. Moideen Sevamandir v. A.M. Kutty Hassan, 2009 (2) S.C.C. 198 the Supreme Court held that any settlement before the Lok Adalat should be voluntary and no party can be punished for failing to reach at a settlement before the Lok Adalat.
legal formalism and rituals and it utilizes voluntary conciliation as a mode of dispute resolution. There is no strict application of procedural laws like the Code of Civil Procedure and the Evidence Act. Procedural flexibility coupled with straightforward course of action results in speedier dispute resolution.

Furthermore, Lok Adalats are much more accessible than regular courts and there is no requirement of a lawyer before the Lok Adalat. The Lok Adalat Judge is there to help out the parties and the parties can directly interact with the Lok Adalat Judge and seek his guidance.

Lok Adalats are popular and effective because of their innovative nature and inexpensive style. They provide inexpensive justice to the parties as the absence of a full dressed trial and mandatory requirement of representation through lawyers coupled with a simplified and expeditious procedure renders them an economical and cost effective mode of dispute resolution. Moreover, no court fee is payable in a Lok Adalat and on the contrary, the court fee which has already been paid before the referral court, has to be refunded if the dispute is settled before the Lok Adalat.

5. LOK ADALATS IN DELHI

5.1 LOK ADALATS ORGANIZED BY DELHI LEGAL SERVICES AUTHORITY

The Delhi Legal Services Authority (D.L.S.A) has been constituted under the Legal Services Authorities Act, 1987. Under the D.L.S.A. there are

43 S. 21(1), Legal Services Authorities Act, 1987; See also P. T. Thomas v. Thomas Job, AIR 2005 SC 3575.
44 The Chief Justice of the Delhi High Court is the Patron in Chief and the senior most Judge of the Delhi High Court is the Executive Chairman of D.L.S.A. Apart from that an Additional District Judge from Delhi is appointed as the Member Secretary of D.L.S.A. The central office of the D.L.S.A. is situated at Patiala House Court Complex.
Each Lok Adalat is presided over by one sitting judge from the Delhi district courts and an associate member.\footnote{In order to create a congenial atmosphere for settlement the Lok Adalat Judge and the associate member do not sit on the dais but across the table with litigants although the Lok Adalats are organized in the court rooms only. Cases are referred to such continuous Lok Adalats held every month by various district courts normally with the consent of the parties if the court finds the existence of elements of settlement. The generic technique of conciliation is employed in the Lok Adalats for settlement of disputes.} In order to create a congenial atmosphere for settlement the Lok Adalat Judge and the associate member do not sit on the dais but across the table with litigants although the Lok Adalats are organized in the court rooms only. Cases are referred to such continuous Lok Adalats held every month by various district courts normally with the consent of the parties if the court finds the existence of elements of settlement. The generic technique of conciliation is employed in the Lok Adalats for settlement of disputes.

In civil cases if the parties are able to arrive at an amicable settlement, such settlement is reduced into writing by the Lok Adalat judge and associate member in the form of statements signed by all the parties. Thereafter, an award is passed in terms of the settlement. In criminal cases involving compoundable criminal cases such settlement results in compounding of the offence which has the effect of acquittal. The award passed in criminal cases also has the status of a decree of the court. However, if the matter is not settled the case is sent back to the court which referred it for disposal in accordance with law.

\footnote{The District Judge of the concerned district is the Chairman of the District Legal Services Authority. One officer of the Delhi Judicial Service is also appointed as the Secretary of each District Legal Services Authority.}

\footnote{The associate member may be a lawyer, doctor etc. as nominated by the D.L.S.A. on an ad hoc basis.}

\footnote{The idea is to provide a less formal and more congenial atmosphere to the parties, which encourages them to freely deliberate at such Lok Adalats thereby increasing the possibility of settlements.}
The Delhi Legal Services Authority regularly organizes various Lok Adalats at the district court level in Delhi.

5.1.1 Continuous Lok Adalats

The expression continuous Lok Adalats refers to Lok Adalats which are regularly organized at specified intervals on certain pre determined days. At the district courts level continuous Lok Adalats are organized by DLSA on the second Saturday of every month for settlement of criminal cases involving compoundable offences\(^{48}\) and civil cases\(^{49}\). A number of such Lok Adalats are organized at each of the six district court complexes in Delhi.

5.1.2 Special Lok Adalats

Special Lok Adalats are a onetime affair and are organized at the district court level by the DLSA at such intervals as the DLSA deems fit. The date for special Lok Adalats is finalized by DLSA well in advance and given due publicity. These special Lok adalats are organized either for disposal of specified categories of cases such as electricity matters, matrimonial matters etc. or even for disposal of cases pertaining to specified institutions such as BSES, NDPL, banks etc.

5.1.3 Mega Lok Adalats

Mega Lok Adalats are organized by the DLSA at the district court level as a special effort occasionally. Mega Lok Adalat is a onetime affair. The date for mega Lok Adalat is finalized by DLSA well in advance and given due publicity. Such mega Lok Adalats are usually organized for mass disposal of

\(^{48}\) This also includes cases under section 138 of the Negotiable Instruments Act, 1881. In fact a majority of the cases referred to the Lok Adalats are under section 138 of the Negotiable Instruments Act, 1881 as around 220416 such cases are pending in the district courts in Delhi as on 01.12.2011 [See http://delhidistrictcourts.nic.in (last visited on 22.04.2012)] and are clogging the judicial system in Delhi. The disposal of these cases through Lok Adalats has been a major step towards easing the dockets.

\(^{49}\) Civil cases include recovery suits and other civil suits, matrimonial cases, labour disputes, motor accident claim cases etc.
petty cases such as traffic challans or petty cases under section 138 of the Negotiable Instruments Act, 1881.50

5.2 LOK ADALATS ORGANIZED BY DELHI HIGH COURT LEGAL SERVICES COMMITTEE

A Delhi High Court Legal Services Committee (D.H.C.L.S.C.)51 has also been constituted under the Legal Services Authorities Act, 1987 at the High Court level. The D.H.C.L.S.C. also organizes Lok Adalats at the High Court level at such intervals as it deems fit.52 These Lok Adalats are normally presided over by retired judges. At the Delhi High Court continuous Lok Adalats were also inaugurated by Justice K.G. Balkrishnan, Chief Justice of India on 17.09.2008 and these continuous Lok Adalats are normally held on Tuesdays and Wednesdays. Similarly special Lok Adalats are repeatedly organized by the D.H.C.L.S.C. at the Delhi High Court for disposal of cases pertaining to BSES, NDPL, Banks such as ICICI Bank, HSBC, etc.

6. ACHIEVEMENTS OF LOK ADALATS IN DELHI

The evolution of the Lok Adalat movement was a part of the strategy to relieve heavy burden on the courts of pending cases and to give relief to the litigants who were in a queue to get justice53 and the Lok Adalats have proved to be quite successful in their primary aim of clearing docket congestion. Lok Adalats in Delhi have, in fact, helped a lot in reducing the massive arrears of cases and if one analyses the figures the results are phenomenal. If the number of cases disposed of were the only parameter, Lok Adalats would be crowned as the finest ADR mechanism. At this juncture, in order to appreciate the accomplishments of Lok Adalats it would be beneficial to examine some of

50 Where the cheques dishonoured relate to petty amounts.
51 The senior most Judge of the Delhi High Court is the Chairman of D.H.C.L.S.C. Apart from that an Additional District Judge from Delhi is appointed as the Secretary of D.H.C.L.S.C. The central office of the D.H.C.L.S.C. is situated at the Delhi High Court.
52 See http://dhclsc.org (last visited on 25.03.2012).
the disposal results of Lok Adalats in Delhi district courts so as to appreciate the positive role played by them.\textsuperscript{54}

**Lok Adalat disposal rates from 01.04.2007 to 31.03.2008**

<table>
<thead>
<tr>
<th>Nature of cases</th>
<th>No. of Sittings</th>
<th>Cases Disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal Compoundable cases and cases u/s 138 N.I.Act</td>
<td>1429</td>
<td>45061</td>
</tr>
<tr>
<td>Mega Traffic Lok Adalat</td>
<td>209</td>
<td>80053</td>
</tr>
<tr>
<td>Bank Recovery matters</td>
<td>236</td>
<td>3466</td>
</tr>
<tr>
<td>Matrimonial Cases</td>
<td>03</td>
<td>21</td>
</tr>
<tr>
<td>M.T.N.L. Cases</td>
<td>02</td>
<td>43</td>
</tr>
<tr>
<td>Criminal Compoundable offences under ACR mechanism</td>
<td>09</td>
<td>169</td>
</tr>
<tr>
<td>Conciliation proceedings by Mahila Courts</td>
<td>31</td>
<td>190</td>
</tr>
<tr>
<td>G.I.C. (MACT/JRY)</td>
<td>13</td>
<td>235</td>
</tr>
<tr>
<td>Rent Control Matters</td>
<td>02</td>
<td>40</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1934</strong></td>
<td><strong>129278</strong></td>
</tr>
</tbody>
</table>

\textsuperscript{54} Delhi Legal Services Authority, 4\textsuperscript{th} Annual Report (2008).
### Lok Adalat disposal rates from October 2008 to December 2008

<table>
<thead>
<tr>
<th>Nature of cases</th>
<th>No. of Sittings</th>
<th>Cases Disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuous MACT Lok Adalat</td>
<td>25</td>
<td>245</td>
</tr>
<tr>
<td>Cases U/s 138 N.I. Act</td>
<td>14</td>
<td>519</td>
</tr>
<tr>
<td>Bank Recovery Cases</td>
<td>76</td>
<td>728</td>
</tr>
<tr>
<td>Continuous Matrimonial Lok Adalat</td>
<td>09</td>
<td>29</td>
</tr>
<tr>
<td>Crl. Compoundable offence under ADR mechanism</td>
<td>09</td>
<td>88</td>
</tr>
<tr>
<td>Mega Lok Adalat* (ICICI Bank) Post-Litigative</td>
<td>64</td>
<td>5445</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>197</strong></td>
<td><strong>7054</strong></td>
</tr>
</tbody>
</table>

### Lok Adalat disposal rates from January 2009 to March 2009

<table>
<thead>
<tr>
<th>Nature of cases</th>
<th>No. of Sittings</th>
<th>Cases Disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuous MACT Lok Adalat</td>
<td>18</td>
<td>162</td>
</tr>
<tr>
<td>Cases U/s 138 N.I. Act</td>
<td>136</td>
<td>5849</td>
</tr>
<tr>
<td>Bank Recovery Cases</td>
<td>51</td>
<td>581</td>
</tr>
<tr>
<td>Mahila Courts</td>
<td>01</td>
<td>13</td>
</tr>
<tr>
<td>Civil cases</td>
<td>02</td>
<td>9</td>
</tr>
<tr>
<td>Matrimonial cases</td>
<td>08</td>
<td>45</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>216</strong></td>
<td><strong>6659</strong></td>
</tr>
</tbody>
</table>
Let also examine some of the figures with respect to the Lok Adalats organized by the DHCLSC at the High Court level in Delhi. In the special Lok Adalat organized by DHCLSC in respect of cases relating to BSES held on 4th and 15th March 2009 around 2500 cases were settled. In the special Lok Adalat held on 13th -14th February 2010 again 1727 cases pertaining to BSES were settled. In the special Lok Adalat held on 29th March 2009 relating to NDPL cases, 1025 cases were settled and similarly in the special Lok Adalat held on 14.03.2010, 1917 cases relating to NDPL were settled. In another special Lok Adalat organized for ICICI bank cases on 21.11.2009, 169 cases were settled. Special Lok Adalats relating to HSBC matters were organized on 16.01.2010, 17.02.2010 and 17.03.2010 and 86 cases were settled therein. On every Thursday of March 2009 a Special Lok adalat for pre litigation cases was organized at the Delhi High Court and 436 cases were settled. Further in the continuous Lok Adalat inaugurated at the Delhi High Court on 17.09.2008 and till 31.03.2010, 324 cases were settled.  

This gives us an insight into the accomplishments of Lok Adalats in Delhi and their contribution to the legal system and the statistical data speaks for itself.

7. ISSUES REGARDING LOK ADALATS

7.1 LOK ADALATS ARE NOT APPOSITE FOR COMPLEX CASES

The first important issue pertaining to Lok Adalats is with respect to the time which is spent on proceedings before a Lok Adalat. The amount of time spent assumes importance in complex matters and the same is important to secure settlements and further ensure efficacious settlements. In Lok Adalat proceedings the neutral (Lok Adalat Judge) may not be able to devote as much time and attention as is possible in case of conciliation and mediation. In case of mediation and conciliation only very few cases are taken up by the neutral (mediator or conciliator) during the day and as such a lot of

55 See Delhi High Court, Biennial Report (2008-2010). Further the disposal rates for High Court cases are lower than those of district courts in view of the fact that the number of cases pending in district courts at Delhi is much greater and secondly the complexity of cases at the High Court level is much greater which acts as a deterrent to settlement in Lok Adalats.
personalized attention can be devoted by the neutral (mediator or conciliator). Time is also not a constraint in mediation or conciliation and the parties may as well have as many numbers of sittings as are required for the satisfaction of the parties.

However in case of Lok Adalats the average time spent on a single case is less than five minutes.\textsuperscript{56} This is understandable as Lok Adalats are generally held in Delhi on ad hoc basis for one day only – normally on second Saturdays. The time available is therefore limited and as many as 50-60 cases\textsuperscript{57} on an average are listed before the Lok Adalat in a single day in Delhi.\textsuperscript{58}

Secondly, although there is no bar in having more than one sitting in Lok Adalats yet the same is practically not possible. In Delhi although, Lok Adalats are held on second Saturdays, yet the dates have to be formally notified by DLSA and they might change depending on exigencies. Further, if the matter is carried forward to the next Lok Adalat, there is a high probability that the matter would be listed before a different Lok Adalat judge. Thirdly there is a time gap of one month between two successive Lok Adalats. Thus the biggest disadvantage with Lok Adalats is that repeated sittings at short intervals with the same judge are almost not possible which breaks the continuity of the deliberations. The cumulative effect of all these factors practically results in a situation where practically only one sitting is held before the Lok Adalat and if the matter is not finally settled in that one sitting it is referred back to the court with an option for subsequent referral to the next Lok Adalat.

One can imagine that within this time frame it is not possible for parties to arrive at final settlements in complex disputes. Thus Lok Adalats may be

\textsuperscript{56} In the Empirical study conducted 85% of the respondents stated that the average time spent on one case was less than 5 minutes.
\textsuperscript{57} This is revealed on examining the ‘Cause Lists’ of matters listed before the Lok Adalats in Delhi.
\textsuperscript{58} Thus excluding the time consumed in miscellaneous exercises the average time which is available for actual conciliation/ settlement proceedings, before a Lok Adalat per case works out to less than 5 minutes.
suitable for simple cases such as complaints under section 138 of the Negotiable Instruments Act, 1881, bank recovery suits, electricity disputes, motor accident claim cases and traffic challans\textsuperscript{59} where the only issue is arriving at a mutually acceptable settlement amount in terms of quantum of money\textsuperscript{60} and the schedule and manner of payment of the same. Likewise Lok Adalats may also be beneficial in case of simple criminal cases involving compoundable offences where complex issues are not involved and the final settlement is straightforward, which is normally based on expression of contrition and clemency or financial \textit{quid pro quo}.

In this background it cannot be denied that Lok Adalat as a forum of dispute resolution may not be very effective\textsuperscript{61} for resolution of complex, multifaceted long standing disputes involving myriad issues between multiple parties such as partition suits, family disputes, complex commercial cases, matrimonial disputes, etc.\textsuperscript{62} For instance, in case of complex matrimonial disputes where offence under section 498 A IPC is also involved it is preferable that parties be referred to mediation.\textsuperscript{63} Another reason for this is that continuous, detailed and focused personalized attention on the part of the neutral is lesser than in case of mediation or conciliation.

The disposal rates of Lok Adalats also fortify this conclusion. For example in the quarter from January to March 2011, the number of cases

\textsuperscript{59} We have special mega traffic Lok Adalats in Delhi where traffic challans issued by the Notice Branch of the Delhi Traffic Police are specifically dealt with. The first such Mega Traffic Lok Adalat was organized on 8\textsuperscript{th} and 9\textsuperscript{th} September, 2007 at all the district court complexes in Delhi.

\textsuperscript{60} Gregg Relyea and Niranjan Bhatt have in fact defined Lok Adalat as a public evaluation process presided over by a judge or panel of neutrals who propose a "\textit{monetary settlement}" after briefly hearing the factual background and claims involved in a dispute. See Gregg Relyea and Niranjan J. Bhatt, "Comparing Mediation and Lok Adalat: Toward an Integrated Approach to Dispute Resolution in India", available at: http://www.mediate.com (last visited on 15.04.2012). See also Anurag K. Agarwal, "Strengthening Lok Adalat Movement in India" available at: http://airwebworld.com/articles/index. (last visited on 15.05.2012).

\textsuperscript{61} A.M. Khanwilkar, “Need to Revitalize ADR Mechanism” available at: http://bombayhighcourt.nic.in/mediation/Mediation_Concept_and_Articles (last visited on 11.04.2012).

\textsuperscript{62} Although there is no bar in referring these matters to Lok Adalats for settlement and in fact matrimonial Lok Adalats are specially held for settlement of matrimonial disputes.

\textsuperscript{63} In the empirical study conducted 60\% of the respondents preferred mediation as a forum for ADR in comparison to Lok Adalats and conciliation for resolution of matrimonial disputes.
under section 138 of the Negotiable Instruments Act, 1881 which were disposed of was 13,763 whereas only 68 matrimonial disputes were settled before Lok Adalats in Delhi.\textsuperscript{64} To cite another example in the month of March 2008, the number of criminal compoundable cases including cases under section 138 of the Negotiable Instruments Act, 1881, which were disposed of before Lok Adalats in Delhi was 4974 whereas only 6 disputes were settled by Mahila conciliation. Further in the mega traffic Lok Adalat held on 8\textsuperscript{th} and 9\textsuperscript{th} September 2007 in all district courts in Delhi 42,567 traffic challans were disposed of\textsuperscript{65} and similarly in the mega traffic Lok Adalat held in November 2008 in all district courts in Delhi 11403 traffic challans were disposed of.\textsuperscript{66} In the mega Lok adalat pertaining to bank matters of ICICI bank only on 8\textsuperscript{th} February 2009, as many as 5445 cases were disposed of.\textsuperscript{67}

Thus, when it comes to disposal of simple cases the disposal rates run into thousands but in case of complex disputes the number of cases disposed of is quite less.\textsuperscript{68} Megal Lok adalats organized for mass disposal of cases also work well in cases of petty offences like traffic challans\textsuperscript{69} or cases under section 138 of the Negotiable Instruments Act, 1881 but not in case of other complex matters.

Even the majority of the cases which are referred to Lok Adalats are matters where complexities are not involved.\textsuperscript{70} For example, in the quarter from October to December 2008, the number of cases under section 138 of the Negotiable Instruments Act, 1881 referred to Lok Adalats was 16148. On

\textsuperscript{65} See Delhi Legal Services Authority, 4\textsuperscript{th} Annual Report (2008).
\textsuperscript{66} Statistical Information available on the website of the Delhi Legal Services Authority at http://dlsa.nic.in (last visited on 05.04.2012).
\textsuperscript{68} At the High Court level where cases are more complex in nature, the number of cases disposed of in the Lok Adalats organized by the Delhi High Court Legal Services Committee from April 2007 to March 2008 was 591. See Delhi High Court, Annual Report (2007-2008).
\textsuperscript{69} Justice A.P. Shah, “Keynote address delivered on 9\textsuperscript{th} November 2009 at the Constitution Club on the occasion of the National Legal Services Day”.
\textsuperscript{70} In the empirical study conducted 80% of the respondents preferred mediation as a forum for ADR in comparison to Lok Adalats for resolution of civil cases (except recovery suits).
the other hand only 40 cases pertaining to Mahila Courts, 271 cases pertaining to matrimonial disputes and 86 civil cases were referred to Lok Adalats.\textsuperscript{71} The necessary conclusion is that Lok Adalats are not very apposite for complex cases, however despite this fact Lok Adalats are quite popular in Delhi and are extensively used for resolution of disputes.

### 7.2 LACK OF CONFIDENTIALITY

Lok Adalat proceedings are held in the open court and any member of public may witness these proceedings. Thus, the element of confidentiality is also lacking. There is practically no room for chamber meetings or individual sessions as time is a major constraint. The parties are, therefore, not able to open up freely to the extent they can in conciliation or mediation proceedings. This also impedes the process of exploration of various resolution options and ultimately the success rate in matters where parties desire confidentiality.

Moreover there is no statutory guarantee of confidentiality in Lok Adalat proceedings nor is there any statutory provision which restricts reference to events during the course of settlement proceedings. However the Supreme Court\textsuperscript{72} has remedied this situation and has held that section 20(5) of the Legal services Authorities Act, 1987 statutorily recognizes the right of a party whose case is not settled before the Lok Adalat to have his case continued before the court and have a decision on merits and any admission made, any tentative agreement reached, or any concession made during the negotiation process before the Lok Adalat cannot be used either in favour of a party or against a party when the matter comes back to the court on failure of the settlement process.

### 7.3 AURA OF COURT PROCEEDINGS

Lok Adalats are considered as ADR fora and are not strictly courts in their accepted connotation. Lok Adalats are fora where voluntary efforts


\textsuperscript{72} *B.P. Moideen Sevamandir v. A.M. Kutty Hassan*, 2009 (2) S.C.C. 198.
intended to bring about settlement of disputes between the parties are made through conciliatory and persuasive efforts.\textsuperscript{73} However the fact of the matter is that Lok Adalats are conducted in regular courts only.\textsuperscript{74} Therefore some amount of formality still remains attached with Lok Adalats. Moreover all proceedings before a Lok Adalat are deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code and every Lok Adalat is deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.\textsuperscript{75} Thus the proceedings before a Lok Adalat are undoubtedly ‘Legal Proceedings’.\textsuperscript{76}

Furthermore some amount of formality continues to remain attached to proceedings before the Lok Adalat and the aura of the court continues to haunt the parties and mould the response of the litigants as a result they are not able to freely interact and communicate which hampers dispute resolution in complicated matters.

Initially in Delhi Lok Adalats were presided over by judges in their regular court rooms while sitting on the dais. However of late a tradition has been started were the judges along with associate members sit across the table with the litigants. Other such steps can be to put a curtain or a temporary screen so that the dais is not at all visible, exempt the traditional court dress, employ psychologists and counselors as associate members, etc. The idea is to create a more friendly and congenial atmosphere for settlement negotiations.

\textbf{7.4 DIMINISHED PARTY AUTONOMY}

In a Lok Adalat the ADR neutral is a judge and the parties are well aware of his position. The Lok Adalat Judge though steers the parties to an acceptable resolution, plays and evaluative, interventionist and suggestive

\textsuperscript{73} See S.K. Sarkar, \textit{Law relating to Lok Adalats and Legal Aid} (Orient Publishing Company, New Delhi, 2\textsuperscript{nd} Edn., 2008).

\textsuperscript{74} Lok Adalats are organized in the court rooms only at district courts in Delhi.

\textsuperscript{75} S. 22(3), Legal Services Authorities Act, 1987.

\textsuperscript{76} A. Ahmed Pasha v. Gulnaz Jabeen, AIR 2001 Karnataka 412
role. Therefore it cannot be said that the parties remain in absolute control of the proceedings in contradistinction to what happens in mediation. Lok Adalat is therefore a neutral-centered process, where the primary focus is on presenting the factual/legal background of a dispute to the Lok Adalat judge who plays an evaluative role and actively proposes settlement terms and controls the process. Therefore affluent and educated parties may not feel themselves to be in total control of the process to the extent as they are in mediation. But for parties from the socially, educationally and economically moderate strata this may be irrelevant since rather than controlling the process themselves what they require is better guidance and they are more likely to trust and rely upon the Lok Adalat judge for that.

8. EFFICACY OF LOK ADALATS

The primary objective for which Lok Adalats were devised was reducing the swelling judicial dockets. The accumulated frustration of the people desirous of quick disposal of their cases is the biggest reason for the people having responded with hope, excitement and zeal in holding Lok Adalats for dispute ending of pending disputes. With the passage of time Lok adalats have lived up to the expectations of the people and have been able to satisfactorily achieve their purpose. The Lok Adalat movement has become a viable, efficacious and expeditious ADR system in India. The utility of Lok Adalats as effective ADR mechanisms cannot be disputed as far as simple cases are concerned. Their efficacy cannot be undermined for the simple reason that the majority of the cases, in terms of number, which may classified as fit for settlement are simple cases only.


78 Sarfaraz Ahmed Khan, Lok Adalats – An Effective Alternative Dispute Resolution Mechanism (APH Publishing Corporation, Delhi, 2006).

79 K. Ramaswamy, “Settlement of Disputes through Lok Adalats is one of the Effective Alternative Dispute Resolution on Statutory Basis”, in P.C. Rao and William Sheffield (Eds.), Alternative Dispute Resolution 93 (Universal Law Publishing Company Pvt. Ltd., Delhi, 1997).
The critics of the Indian judicial system constantly refer to the surmounting arrears of cases piling up in the Indian courts. However the nature of cases which are described as arrears is never considered. A vast chunk of cases which are choking the judicial system are petty cases and such kinds of cases are quite suitable for being referred to Lok Adalats. Indeed the most desired function of Lok Adalats in this era of swelling judicial dockets may seem to be clearing the backlog. In that sense, Lok Adalats have enabled the judicial system to ameliorate this institutional burden of petty cases which is not only clogging the judicial system but also adding to the figures resulting in this propaganda of surmounting arrears. It cannot be, therefore, gainsaid that the Lok adalats have done a commendable job.

It is argued by some that the cases disposed of by Lok Adalats can very well be disposed of by the regular courts or they are already on the verge of settlement. There is no doubt that cases disposed of by Lok Adalats can very well be disposed of by regular courts. However that ipso facto does not render the Lok Adalats superfluous and redundant, nor does it, imply that Lok Adalats are not effective as ADR mechanisms. In fact, this argument that the cases referred to ADR can be settled before the court itself, equally applies to all ADR mechanisms.

But a case cannot be said to be really settled unless the settlement is actually recorded and the matter is finally disposed of. The Lok Adalats also

80 The critics however fail to take note of the fact that the judiciary has no control over the institution of cases and the judge to population ratio or the judge to case ratio is extremely poor in India.
82 The national statistics relating to Lok Adalats from January to September 2010 is as follows: No. of Lok Adalats held : 60,981; No. of cases disposed of : 16,71,944 [See (I) National Legal Services Authority Newsletter, Premier Issue (April-November 2010)].
83 See Marc Galanter & Jayanth K. Krishnan, “Bread for the Poor: Access to Justice and Rights of the Needy in India”, 55 Hastings L.J. 789 (March, 2004); Some also argue that the ‘success’ of the Lok Adalat stems from negative reasons attributable to the failures of the formal legal system. See Ujwala Shinde, “Challenges Faced by ADR System in India”, 4 (2) The Indian Arbitrator 6 (February 2012). But this true for all ADR mechanisms and in fact the inadequacies of the formal legal system have been a driving factor for growth of all ADR mechanisms all over the world.
conduct conciliation, steer the disputants to arrive at an amicable solution, record the settlement in the form of statements of the parties and pass awards on the basis of such settlements, which undoubtedly requires time. Lok Adalats are held on days when the regular courts are not functioning. Thus the time spent in disposal of cases in Lok Adalats does not eat away the judicial time of the judges which can be utilized by judges for adjudication of cases on merits.

In case the judges take up such cases for compromise during court working hours considerable amount of judicial time would be wasted. The other way round, it may not be possible for judges to find and devote additional time for effecting settlement of such cases in regular courts. It may thus be stated that Lok Adalats is an extra endeavour on the part of the judges and the DLSA beyond the court working hours/ days to clear up the dockets by resorting to settlement of disputes through the generic process of conciliation in the open court. This extra effort is what makes a difference.

Questions are also raised sometimes in respect of quality of justice rendered. However one must remember that a legal adjudication may be flawless but heartless while a negotiated settlement will be satisfying, even if it departs from strict law. Attainment of the cherished goal of justice for all through mutually acceptable resolution of disputes is characteristic of all ADR mechanisms and this has been endorsed all over the globe. There is nothing peculiar with respect to Lok Adalats as far as this issue is concerned. The savings in terms of time, money and effort and the contentment of an amicable resolution add more value to the quality of justice. Further the concept of justice must also be viewed in light of the prevailing scenario and one cannot harp on the concept of ideal justice given the conditions which

84 In Delhi usually on second Saturdays and sometimes on Sundays.
exist in India and when viewed in that perspective there can be no doubt that quality justice is rendered by the Lok Adalats.

In Delhi Lok Adalats are organized by the D.L.S.A./ D.H.C.L.S.C., they are funded by the state and are monitored by the Delhi High Court. Lok Adalats have set the ADR process in motion in Delhi and helped a lot in managing and easing the judicial dockets thereby aiding the improvement of the legal system. To ignore their contributions is to misunderstand both how justice functions in India and the constraints on the path to greater access to justice in the future.87

However the Lok Adalat system is not visualized to supplant the court system but only as a supplementary machinery to get pending cases resolved.88 Lok Adalats provide an alternative resolution instrument for expeditious and inexpensive justice and their utility as an ADR mechanism cannot be disputed in the present scenario in Delhi. In fact the Lok Adalat concept and philosophy is an innovative Indian contribution to the world jurisprudence.89

9. PERMANENT LOK ADALATS

9.1 CONCEPT OF PERMANENT LOK ADALATS

Permanent Lok Adalats are a species of Lok Adalats only but modified in certain respects. In general Lok Adalats are held periodically under the aegis of the Legal Services Authorities/ Committees and are not a regular/daily affair. However Permanent Lok Adalats are permanent dispute resolution fora which work continuously as any other court/tribunal.

The Legal Services Authorities Act, 1987 originally did not provide for establishment of Permanent Lok Adalats. However the Legal Services

89 Jitendra N. Bhatt, “Round Table Justice through Lok Adalat (People’s Court) – A Vibrant ADR in India”, 1 SCC (Journal) 11 (2002).
Authorities Act was amended in the year 2002\textsuperscript{90} and the chapter\textsuperscript{91} pertaining to Permanent Lok Adalats was inserted.

The Legal Services Authorities are now enjoined upon to establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services\textsuperscript{92} and for such areas as may be specified.\textsuperscript{93}

The Chairman of the Permanent Lok Adalat is a person who is, or has been, a district judge or additional district judge or has held a judicial office higher in rank than that of a district judge. Two other persons having adequate experience in public utility services are also nominated by the government.\textsuperscript{94}

The jurisdiction of the Permanent Lok Adalat may be invoked by any party to a dispute at the pre litigation stage by making an application to the Permanent Lok Adalat for the settlement of dispute. Once the jurisdiction of the Permanent Lok Adalat has been invoked the parties are precluded from taking recourse to proceedings before a court of law.

However the Permanent Lok Adalat has no jurisdiction in respect of any matter relating to a non compoundable offence\textsuperscript{95} or where the value of the property in dispute exceeds Rupees ten lakhs. Permanent Lok Adalats also have no jurisdiction where the matter does not pertain to any public utility

\textsuperscript{90}See Legal Services Authorities (Amendment) Act, 2002 (Act No.37 of 2002).
\textsuperscript{91}Chapter VI-A was introduced in the Legal Services Authorities Act, 1987 with the title “Pre-litigation Conciliation and Settlement”.
\textsuperscript{92}‘Public Utility Service’ means any transport services for the carriage of passengers or goods by air, road or water or postal, telegraph or telephone service or supply of power, light or water to the public by any establishment or system of public conservancy or sanitation or service in hospital or dispensary or insurance service and includes any service which the Central Government or the State Government, as the case may be, may in the public interest, by notification, declare to be a public utility service. See s. 22A(b), Legal Services Authorities Act, 1987.
\textsuperscript{93}S. 22 B(1), Legal Services Authorities Act, 1987.
\textsuperscript{94}S. 22 B(2), Legal Services Authorities Act, 1987.
\textsuperscript{95}United India Insurance Co. Ltd. v. Ajay Sinha, AIR 2008 SC 2398.
service. Permanent Lok Adalats also cannot take cognizance of a matter which is already *sub judice* in a court of law.\(^{97}\)

The Permanent Lok Adalat at the first instance employs the process of conciliation so as to assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner. It may direct parties to produce evidence and other related documents before it. The Permanent Lok Adalat, while conducting conciliation proceedings or deciding a dispute on merits has to be guided by the principles of natural justice, objectivity fail play, equity and other principles of justice, and is not bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872.\(^{98}\)

Where the parties reach at an agreement on the settlement of the dispute, they have to sign the settlement agreement and the Permanent Lok Adalat passes an award in terms thereof and has to furnish a copy of the same to each of the parties concerned.\(^{99}\) Where the parties fail to reach at an agreement the Permanent Lok Adalat, if the dispute does not relate to any offence, has to decide the dispute on merits.\(^{100}\) This is the basic area where a Permanent Lok Adalat clearly differs from an ordinary Lok Adalat. Thus Permanent Lok Adalats have residuary jurisdiction, in addition to the jurisdiction enjoyed by Lok-Adalats, to decide the dispute by virtue of S.22C(8) even if the parties have failed to resolve the dispute after conciliation.\(^{101}\)

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\(^{96}\) Permanent Lok Adalats have no jurisdiction in case of matrimonial disputes and any award passed by a Permanent Lok adalat in such matters is void. See *Rita Kumari Shahu @ Saha v. Shyam Sundar Shahu*, 2007 (2) I.C.C. 648.

\(^{97}\) *Dinesh Kumar v. Balbir Singh*, AIR 2008 Himachal Pradesh 59. Such cases which are already pending in courts can only be referred to the regular Lok Adalats, constituted under ss. 19 and 20, Legal Services Authorities Act, 1987.


\(^{100}\) S. 22 C(8), Legal Services Authorities Act, 1987.

The award of the Permanent Lok Adalat is final and binding on all the parties thereto and on persons claiming under them and the same is deemed to be a decree of a civil court.\(^\text{102}\) Again no appeal lies against the judgment award of the Permanent Lok Adalat. The award of the Permanent Lok Adalat is final\(^\text{103}\) cannot be called in question in any original suit, application or execution proceedings. The award however is to be made by a majority of the persons constituting the Permanent Lok Adalat.\(^\text{104}\)

### 9.2 PERMANENT LOK ADALATS - WHETHER AN ADR MECHANISM

Permanent Lok Adalat definitely possesses trappings of adjudication and in this perspective sometimes questions are raised about its classification as an ADR mechanism. In *State of Punjab v. Jalour Singh*\(^\text{105}\) the Supreme Court held that the Lok Adalats only have a conciliatory role and they are not competent to undertake adjudicatory determination and the award of the Lok Adalat does not mean and imply any independent verdict or opinion arrived at by the decision-making process.

The next question is then how the concept of Permanent Lok Adalat co-exists with this judgment of the Supreme Court. The aspect to be considered is that in *State of Punjab v. Jalour Singh* the Supreme Court was dealing with a case involving a Lok Adalat within the contemplation of section 19, 20, 21 and 22 of the Legal Services Authorities Act, 1987. The Permanent Lok Adalats in contradistinction to Lok Adalats have been expressly conferred an adjudicatory role by the statute.\(^\text{106}\) Where in a matter before a Permanent Lok Adalat the matter cannot be settled by conciliation the Permanent Lok

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\(^{102}\) In *Ram Niwas v. D.D.A.*, AIR 2007 Delhi 115 it was held that Permanent Lok Adalat is a statutory body in terms of the Legal Services Authorities Act, 1987 and its decision must be accepted.

\(^{103}\) Paras Holidays Pvt. Ltd. v. *State of Haryana*, 2008(4) R.C.R.(Civil) 367

\(^{104}\) S. 22 E, Legal Services Authorities Act, 1987.

\(^{105}\) AIR 2008 SC 1209.

\(^{106}\) S. 22 C(8), Legal Services Authorities Act, 1987.
Adalat is statutorily enjoined to decide the dispute on merits.\textsuperscript{107} The judgment in \textit{State of Punjab v. Jalour Singh} would therefore not apply to Permanent Lok Adalats since in that case the court was not considering the provision enshrined under section 22C(8) of the Legal Services Authorities Act, 1987.\textsuperscript{108}

Moreover the amendments to the Legal Services Authorities Act, 1987 pertaining to Permanent Lok Adalats were challenged, but they were upheld by the Supreme Court of India.\textsuperscript{109}

In \textit{Life Insurance Corporation of India v. Suresh Kumar}\textsuperscript{110}, the Supreme Court observed that Permanent Lok Adalat has no jurisdiction or authority vested in it to decide any lis, as such, between the parties even where the attempt to arrive at an agreed settlement between the parties has failed. However, again the court in that case was dealing with and referring to a Lok Adalat' organized under section 19 of the Act. ‘Continuous Lok Adalats’ organized under section 19 of the Legal Services Authorities Act, 1987 are sometimes loosely described as ‘Permanent Lok Adalats’ and should not be confused with Permanent Lok Adalats constituted under section 22B(1) of the Act. This position has been clarified by the Supreme Court itself\textsuperscript{111} that a Permanent Lok Adalat has the jurisdiction to decide on the merits of the dispute where an amicable resolution of the dispute fails.\textsuperscript{112}

Thus a person who enters the domain of a Permanent Lok Adalat cannot withdraw from the same and he must ultimately suffer a decision on merits if a negotiated settlement does not fructify and that to with the added

\begin{itemize}
\item\textsuperscript{107} The only exception has been made in a case where the dispute pertains to an offence, even if it is a compoundable offence and in such cases the Permanent Lok Adalat cannot decide the matter on merits.
\item\textsuperscript{108} \textit{Pu Lalkanglova Sailo v. Pi Ngurthantluangi Sailo}, AIR 2009 Gauhati 39.
\item\textsuperscript{109} \textit{S.N. Pandey v. Union of India}, Writ Petition (Civil) No. 543/2002 decided by the Supreme Court vide order dated 28.10.2002.
\item\textsuperscript{110} 2011 (4) SCALE 137.
\item\textsuperscript{111} \textit{InterGlobe Aviation Ltd. v. N. Satchidanand}, (2011) 7 SCC 463.
\item\textsuperscript{112} See also \textit{United India Insurance Co. Ltd. v. Ajay Sinha}, 2008 (7) S.C.C. 454 where the Supreme Court held that the Parliament has given the authority to the Permanent Lok Adalat to decide matters on merits and therefore it has an adjudicating role to play.
\end{itemize}
rigour of absence of any appeal. This might put a party at some disadvantage in as much as the forum which in its form appears to be conciliatory ultimately turns out to be adjudicatory. Lawyers have been very critical of this provision. But this only implies that that the concept of Permanent Lok Adalat does not appear to be completely in sync with purely non adjudicatory ADR.

Be that as it may there are ADR mechanisms which have adjudicatory character also. Arbitration is a purely adjudicatory process and still it is regarded as an ADR mechanism. We also have hybrid processes such as ‘Med-Arb’ wherein the parties allow the same person to first mediate, and if that is unsuccessful, then arbitrate a dispute. It is also considered as an ADR mechanism having both adjudicatory as well as non adjudicatory trappings.

Similarly dispute resolution through Permanent Lok Adalats is also an ADR mechanism, hybrid in nature, having both adjudicatory as well as non adjudicatory trappings and alternative in the sense that it offers a substitute to conventional litigation and it steers clear of the rigidity and complexity of the conventional litigative process. A Permanent Lok Adalat is a special tribunal which is not a ‘court’ and its decision is not subject to successive

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113 In Ambika Kumar v. State of Kerala, AIR 2012 Kerala 16 it was held that once a complaint is filed before the Permanent Lok Adalat and the same is within its jurisdiction, then the Permanent Lok Adalat has no escape from deciding the matter finally, which can be through a settlement award, and if there is no possibility of a settlement by deciding the case on merits.


117 A Permanent Lok Adalat is not bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872.

118 InterGlobe Aviation Ltd. v. N. Satchidanand, (2011) 7 SCC 463.
appeals.¹¹⁹ The procedure is somewhat similar to Med-Arb. The Supreme Court¹²⁰ has held that the procedure adopted by Permanent Lok Adalats is what is popularly known as `Con-Arb' (conciliation cum arbitration) in the United States of America, where the parties can approach a neutral third party or authority for conciliation and if conciliation fails, authorize such neutral third party or authority to decide the dispute itself, such decision being final and binding.¹²¹

The Chairman of a Permanent Lok Adalat is a person who has held a judicial office of an additional District Judge or higher. Thus there can be no issues about quality of the decision making process or the decision rendered on merits. Lawyers regularly appear before the Permanent Lok Adalats in Delhi leaving no room for any issues with respect to adequate legal representation. The Permanent Lok Adalat invites written statements of the parties. It may take such documents and evidence as it may deem fit and it is to be guided by the principles of natural justice, objectivity fail play, equity and other principles of justice. The mere fact that it is not bound by the provisions of Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872 does not imply that the Permanent Lok Adalat decides on the basis of no evidence or it decides capriciously.¹²²

Thus dispute resolution through Permanent Lok Adalat is definitely an ADR mechanism. A person submitting to the jurisdiction of the Permanent Lok Adalat is presumed to know the law that in case the dispute is not amicably resolved, the Permanent Lok Adalat would acquire an adjudicatory role and

¹¹⁹ The award of the Permanent Lok Adalat is, however, amenable to the writ jurisdiction of the High Court.

¹²⁰ InterGlobe Aviation Ltd. v. N. Satchidanand, (2011) 7 SCC 463.

¹²¹ However the Jharkhand High Court by judicial interpretation has, however, held that the Permanent Lok Adalat must inform the parties regarding the adjudicatory role of a Permanent Lok Adalat and the fact that no appeal would lie against the award of the Permanent Lok Adalat and if thereafter the parties expressly consent to have their matter adjudicated on merits by the Permanent Lok Adalat then only it should proceed to dispose of the case of merits. See Eastern Central Railway v. Ashok Kumar Verma, 2009 (4) J.L.J.R. 129; See also Branch Manager, Tata AIG General Insurance Co. Ltd. v. Bandana Devi, W.P.(S) No. 2557 of 2008 decided on 25.02.2010 by the High Court of Jharkhand.

¹²² Even an arbitrator is not bound by the provisions of Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872.
hence the so called disadvantage can only be described as a self imposed disadvantage, if at all it is really a disadvantage. Lawyers can also very well apprise the client of the demerits, if any, of the machinery of PLA. In spite of that, if the party is inclined to resort to the cheaper remedy, it cannot be said that the legislation is anti litigant, as there is no compulsion that one shall first approach PLA before approaching a court of law.123

In practice Permanent Lok Adalats have similar benefits and suffer from similar disabilities as ordinary Lok adalats do. However Permanent Lok Adalats function continuously and they require additional separate expenditure. They provide an additional state sponsored ADR mechanism with the capacity and time to deal with much greater number of cases and more complex cases than ordinary Lok Adalats.

9.3 PERMENENT LOK ADALATS IN DELHI AND THEIR ACHIEVEMENTS

The importance of Permanent Lok Adalats as ADR mechanisms cannot be underestimated. Even the Delhi High Court, while endorsing the importance of Permanent Lok Adalats in Abdul Hassan and National Legal Services Authority v. Delhi Vidyut Board124 directed that permanent Lok Adalats shall be set up for Delhi Administration, Delhi Development Authority, Mahanagar Telephone Nigam Limited, Municipal Corporation of Delhi, New Delhi Municipal Committee, General Insurance Corporation of India by the Delhi State Legal Services Authority. At present there are 16 Permanent Lok Adalats currently functioning in Delhi. Out of these, seven Permanent Lok Adalats have been functioning regularly to settle motor accident claims cases. The other nine Permanent Lok Adalats work towards resolving disputes relating to various government departments and statutory bodies, like BSES/

124 AIR 1999 Delhi 88.
NDPL, MTNL, DDA and NDMC. However, only the Permanent Lok Adalats for disposal of cases pertaining to BSES/NDPL are functioning continuously on a regular basis, while the others function at such intervals keeping in mind the availability of cases.

If we analyze the statistics then we will understand the contribution of Permanent Lok Adalats in a better manner. During the quarter from January to March 2011 the Permanent Lok Adalat for electricity matter pertaining to BSES and NDPL disposed of as many as 1136 cases. During the quarter from July to September 2009 the Permanent Lok Adalat for electricity matter pertaining to BSES and NDPL disposed of as many as 3361 cases. During this period i.e. July to September 2009 the permanent Lok adalat for DDA matters took up 569 cases and disposed of 17 cases.

PLA disposal rates from 01.04.2007 to 31.03.2008

<table>
<thead>
<tr>
<th>Nature of cases</th>
<th>No. of Sittings</th>
<th>Cases Disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>DDA (PLA)</td>
<td>91</td>
<td>245</td>
</tr>
<tr>
<td>NDPL/ BSES (PLA)</td>
<td>460</td>
<td>3063</td>
</tr>
</tbody>
</table>

The Electricity Permanent Lok Adalats at Mata Sundari Lane, New Delhi dealing with BSES and NDPL cases are presided over by retired High Court Judges.

See http://dlsa.nic.in (last visited on 20.04.2012); See also “Lok Adalats: Easing the Backlog”, Express News Service, February 16, 2009 available at: http://www.expressindia.com (last visited on 20.04.2012); The Permanent Lok Adalats dealing with electricity disputes are continuously functioning from Mata Sundari Lane, New Delhi.


PLA disposal rates from October 2008 to December 2008 to 31.03.2008

<table>
<thead>
<tr>
<th>Nature of cases</th>
<th>No. of Sittings</th>
<th>Cases Disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>DDA (PLA)</td>
<td>10</td>
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<tr>
<td>NDPL/ BSES (PLA)</td>
<td>91</td>
<td>646</td>
</tr>
</tbody>
</table>

PLA disposal rates from January 2009 to March 2009

<table>
<thead>
<tr>
<th>Nature of cases</th>
<th>No. of Sittings</th>
<th>Cases Disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>DDA (PLA)</td>
<td>12</td>
<td>10</td>
</tr>
<tr>
<td>NDPL/ BSES (PLA)</td>
<td>95</td>
<td>774</td>
</tr>
</tbody>
</table>

All these cases which were disposed of by Permanent Lok Adalats were cases which could have become prospective arrears for the Delhi Judiciary. Thus the disposal of these thousands of cases by Permanent Lok Adalats in Delhi is a significant contribution to the justice delivery system. Delhi has a vast population along with a very complex and widespread system of public utility services. Hence the contribution of Permanent Lok Adalats in streamlining the legal system is quite sizeable. They have provided effective ADR fora for expeditious resolution of disputes pertaining to public utility services outside the traditional court system.\(^{129}\)

10. EPILOGUE

Lok Adalats meaning ‘People’s Courts’ are ADR fora where the Lok Adalat Judges steer the disputant parties towards a negotiated settlement by the use of generic process of conciliation. In Delhi Lok Adalats are organized under the auspices of the D.L.S.A. at the district court level and D.H.C.L.S.C. at the High Court level in the form of continuous Lok Adalats, special Lok Adalats, mega Lok Adalats etc.

While Lok Adalats have proved to be extremely efficacious for disposal of simple straightforward cases such as complaints under section 138 of the Negotiable Instruments Act, 1881, recovery suits, electricity disputes, motor accident claim cases, traffic challans, etc., they may not be very effective\(^{130}\) for resolution of complex cases such as partition suits, family disputes, complex commercial cases, matrimonial disputes. The reasons are not far to seek, a few being availability of limited time with the Lok Adalat judges, heavy cause lists, lack of continuous personalized attention, want of confidentiality, limited number of sittings (sometimes only one) with the same Lok Adalat Judge, etc.

However despite these limitations Lok Adalats are extremely popular ADR fora in Delhi and are regularly organized. Thousands of simple cases which were clogging the judicial system thereby swelling the judicial dockets have been disposed of through Lok Adalats and the organization of these Lok Adalats is an extra endeavour on the part of the judges and the DLSA beyond the court working hours/ days to clear up the judicial dockets. Lok Adalats have therefore been successful in accomplishing their primary goals for which they were mooted– providing expeditious and inexpensive justice and clearing the judicial dockets. To ignore their contributions is to misunderstand both

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how justice functions in India and the constraints on the path to greater access to justice in the future.\footnote{Marc Galanter & Jayanth K. Krishnan, “Bread for the Poor: Access to Justice and Rights of the Needy in India”, 55 Hastings Law Journal 789 (March, 2004).}

The concept of Lok Adalat is no longer an experiment in India, but it is an effective and efficient, pioneering and palliative alternative mode of dispute settlement which is accepted as a viable, economic, efficient, informal, expeditious form of resolution of disputes.\footnote{Jitendra N. Bhatt, “Round Table Justice through Lok Adalat (People’s Court) – A Vibrant ADR in India”, 1 SCC (Journal) 11 (2002); See also K.D. Raju, “Alternative Dispute Resolution System: A Prudent Mechanism of Speedy Redress in India”, available at: http://papers.ssrn.com (last visited on 21.04.2012).} The empirical data reveals startling results and if the number of cases disposed of were the only parameter Lok Adalats would be crowned as the finest ADR mechanism.

At this juncture the endeavour should be to organize more and more Lok Adalats\footnote{The National Commission for Women (NCW) has evolved the concept of Parivarik Mahila Lok Adalat, which in turn supplements the efforts of the District Legal Service Authority (D.L.S.A.) for redressal and speedy disposal of the matters pending in various courts related to marriage and family affairs. See http://ncw.nic.in (last visited on 01.05.2012).}, ensure greater participation, reduce formalism, spare more time and personalized attention thereby ensuring quality justice through Lok Adalats. The movement also requires a greater support from the bar for its success.\footnote{Justice A.P. Shah, Keynote address delivered on 9th November 2009 at the Constitution Club on the occasion of the National Legal Services Day.}

Permanent Lok Adalats on the other hand are permanent ADR fora which have been established under the Legal Service Authorities Act, 1987 for resolution of disputes pertaining to public utility services at the pre litigation stage. The Permanent Lok Adalats initially utilize the generic process of conciliation to broker a settlement between the parties and in case the matter is not settled it proceeds to decide the case on merits, except in cases involving a criminal offence.

Characterized by its huge population and all round development in all spheres of life, Delhi possesses a huge network of public utility services and
speedy resolution of disputes with respect to such public utility services is essential for societal well being and development. This underlines the importance of Permanent Lok Adalats in Delhi which has also been highlighted by the Delhi High Court in *Abdul Hassan and National Legal Services Authority v. Delhi Vidyut Board*. At present there are various Permanent Lok Adalats functioning in Delhi and the disposal of thousands of cases by these Permanent Lok Adalats in Delhi is a significant contribution to the justice delivery system and therefore more and more Permanent Lok Adalats are required to be established in Delhi covering myriad public utility services.

There is no dispute about the proposition that India has moved aggressively into this realm of ADR through Lok Adalats including Permanent Lok Adalats. However the Lok Adalat movement needs to be taken to still greater echelons as the system needs to inhale the life giving oxygen of justice through the Lok Adalats.

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135 AIR 1999 Delhi 88.


137 A scheme for Mobile legal services cum Lok Adalat has been mooted in the state of Maharashtra by the Maharashtra Legal services Authority in order to materialize the idea of Justice at doorsteps. See http://legalservices.maharashtra.gov.in (last visited on 28.04.2012). A similar scheme can be floated in Delhi also.