CHAPTER V
LOK ADALAT LAW AND JUDICIAL APPROACH

1. Introduction

The Institution of Lok Adalat has a great significance in a developing country like India, where there is appalling poverty, ignorance and illiteracy, and the people lack awareness of their rights and means to enforce them. It has been developed with the object to struggle with the problems of lengthy and costly justice system. The system as an innovative form of Alternative Dispute Resolution has been working for resolving disputes in a spirit of conciliation outside the courts since 1982. In beginning, the Lok Adalats were established as a part of Legal Aid Service Programme. At that time, these were organized by State Legal Aid and Advice Boards or District Legal Aid Committees. The venue of the Lok Adalat was fixed about a month in advance by the Legal Aid Board or Legal Aid Committee.

Lok Adalat was given wide publicity through print and electronic media. It took cases pending in courts, tribunals and before the executive. For this purpose, the Chairman of District Legal Aid Committee directed to the various courts which were to be covered by the Lok Adalat to prepare a list of pending cases which they considered to be suitable for negotiated settlement. Similarly, the District Magistrate or Deputy Commissioner or Collector as he was known in some places instructed its subordinate officers to prepare a list of revenue and executive cases to be settled in the Lok Adalat. Generally, these cases were of civil, revenue and compounding criminal

2. Ibid.
offences. Therefore, it had wide jurisdiction to settle various types of cases involving mutation of land, land pattas, forest land, labour disputes and industrial disputes, cases of guardianship and succession, matrimonial and family disputes, mostly motor vehicles accidental claims, etc. For the selection of cases, to be referred to Lok Adalat, no hard and fast criteria was laid down. It was depended upon the judges of the Court to select the cases for settlement through Lok Adalats. Upon the preparation of list of such cases, notices were then issued to all the parties to dispute well in time so as to afford them opportunity to prepare themself for the Lok Adalat.

On the specified day, place and time the Lok Adalat was organized and in which apart from parties to the dispute, members of Lok Adalat, local officers, lawyers, members of Gram Panchayats, Zila Parishads, law teachers and students, social workers and people from nearby places were assembled. The members of a Lok Adalat were usually a retired judicial officers or retired civil servants or advocates or law teachers or social workers. Such person were selected as the members of Lok Adalat on the basis of their record of public service, honesty and respectability among local population.

In Lok Adalat’s proceedings, at first instance, both the disputing parties were called for the presentation of their case before it. Then the parties explained their views and discussed various issues of the dispute. The members of Lok Adalat heard the viewpoints of the parties and endeavoured to provide guidelines for both the parties for arriving at the truth of the matter. It also provided even a solution with regard to

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3. *Id.*, 86-87.
5. *Supra note* 1, 87.
resolution of dispute, in case of any difficulty faced by them in the decision making process. An agreement was finally drawn on the basis of the free consent of the parties and was signed by both parties in the presence of members of Lok Adalat. The Lok Adalat took initiative to acquaint the regular court with the resolution of disputes and requested for the execution of agreement arrived at between the parties. Finally, the Lok Adalat requested the court to withdraw the case on the lines agreed to by both the parties before it.\textsuperscript{6} It is evident from the process of working of Lok Adalat that it is a forum which does not only provide speedy and cheap justice to all through conciliatory and persuasive methods but also brings unity and brotherhood among disputants. The functioning of the Lok Adalat system shows that it has received wide support from different Sections of the society even it has different structure and procedure in different States of the country. It has helped in lessening the work load of courts and has also provided justice to the poor, weaker and neglected sections of the society. Therefore, in the light of advantages of Lok Adalat system and in order to implement the Constitutional mandate under Article 39A, the Parliament has provided the statutory status to Lok Adalats under the Legal Services Authorities Act, 1987 (for brevity 'the Act'). The powers, procedure to be followed for settlement of disputes through the instrumentality of Lok Adalat, have also been spelt out in the Act. The Act has prescribed the method to organize Lok Adalats for operation of the legal system and to promote justice on a basis of equal opportunity.

The Act has conferred on the Lok Adalats the powers of civil courts and the settlements arrived at through the

mechanism of Lok Adalats are final, binding and non appealable. The Act has brought the resemblance in the structure, jurisdiction, procedure and awards of Lok Adalats. The Act was amended in 2002 with the object to establish the Permanent Lok Adalats for the purpose of determination of disputes relating to public utility services in pre-litigation matters. By going through the provisions of the Act it is evident that there are two kinds of Lok Adalats viz. Lok Adalat and the Permanent Lok Adalat.

In this chapter we will discuss the various aspects of Lok Adalats such as organization, jurisdiction, cognizance of cases, powers, procedure, award and finality of such award of Lok Adalats and Permanent Lok Adalat in the light of judicial pronouncements. We will also examine the parameters of its statutory powers in determining the dispute. Does its role limited to merely striving to bring about a compromise or can it go beyond that and decide the dispute? Hence, it is necessary to advert the provisions of the Act which are material for our purpose and to construe their scope and extent of applicability with the aid of its other related provisions in the Act and judicial approach upon such provisions.

2. Lok Adalat

The chapter VI of the Act deals with the Lok Adalat in which Sections 19 to 22 are related to organisations, constitution, cognizance of cases, procedure, powers and award of Lok Adalats. But the Act does not define the term ‘Lok Adalat’. As per Section 2(d), ‘Lok Adalat’ means a Lok Adalat organized under Chapter VI. So, it is clear that this definition does not say about the nature and features of Lok Adalat. For the purpose of determining the true meaning, nature and scope of Lok Adalat, we will have to consider the provisions of above said Chapter.
2.1 Organisational Setup of Lok Adalats

Justice through Lok Adalat is a significant feature of Indian justice delivery system. It is a unique example of participatory justice in which various persons concerned with different fields of life participate with the object to provide effective justice to the needy. For the assessment of an institution, it is essential to know the composition of such institution. Therefore, Section 19 of the Act deals with the constitution and organization of the Lok Adalat. Lok Adalats are organized by various authorities and committees at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

As per this provision in State of Haryana, the Secretary of the High Court Legal Services Committee or the Secretary of the District Authority or the Chairman of the Sub-Divisional Legal Services Committee is empowered to convene and organize Lok Adalats at regular intervals or on such dates, as directed by the State Authority. However, in order to coordinate the holdings of Lok Adalats, Member Secretary of the State Authority prepares a quarterly roster for holding Lok Adalats at different District and Sub-Divisional Head-quarters and circulate the same to different Authorities. Similarly, the District Authority or Sub-Divisional Committee as the case may be, informs the State Authority about the proposal to organize the

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7. Every State Legal Service Authority or District Legal Services Authority or the Supreme Court Legal Services Committee or, every High Court Legal Services Committee or Taluk Legal Services Committee.
8. The Legal Services Authorities Act, Sec. 19(1).
9. Since one High Court Legal Services Committee under Sec. 8A for the States of Punjab, Haryana and the Union Territory of Chandigarh, has been constituted, the Lok Adalats in the High Court shall be conducted in the manner as may be evolved by the Executive Chairman of the State Authorities of Punjab, Haryana, Union Territory of Chandigarh and Chairman of the High Court Legal Services Committee. Haryana Legal Services Authority Regulations, 1998, Reg. 31.
Lok Adalat well before date on which the Lok Adalat is proposed to be organized.\textsuperscript{10} As per Regulation 23 of the Haryana Legal Services Authority Regulations, in State of Haryana, generally, Lok Adalats are organised at such time and place, on closed Saturday, Sundays and holidays as the concerned Authority or Committee deems appropriate. Special Lok Adalats which deal with special kinds of cases, are also organized by various authorities such as Lok Adalat related to labour disputes, family disputes, cases of Motor Accident Claims Tribunal (MACT), Bank loan, electricity bills, etc.

The Lok Adalats function by all those persons who are authorized in accordance with Section 19(2)\textsuperscript{11} of the Act such as serving or retired judicial officer, social worker, a lawyer, a reputed person of such area where the Lok Adalat is going to be organized. All the Lok Adalats are constituted as per provisions of the Act and rules and regulations made under the Act.

At Supreme Court level the Supreme Court Legal Services Committee is authorized to organize Lok Adalat for the Supreme Court cases. Such Lok Adalat shall consist of a sitting or retired judicial officer and other persons who must be (a) a member of the legal profession; or (b) a reputed person who is also interested in the implementation of the Legal Services Schemes and Programmes; or (c) an eminent social worker engaged in the upliftment of weaker Sections of the people, including Scheduled Castes, Scheduled Tribes, women, children, rural

\textsuperscript{10} Haryana Legal Services Authority Regulations, 1998, Reg. 18.
\textsuperscript{11} Sec. 19(2). Every Lok Adalat organised for an area shall consist of such number of—
(a) serving or retired judicial officers; and
(b) other persons, of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee or, as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.
and urban labour. The Lok Adalat at High Court level shall be consisted of serving or retired judicial officer and other persons which includes social worker engaged in the upliftment of the weaker Section of the people including Scheduled castes, Scheduled Tribes, women, children, Rural and Urban labour; or a lawyer of standing; or a reputed person who is interested in the implementation of the Legal Services Programmes and Schemes.

The Secretary of the District Authority and the Chairman of Sub-Divisional Committee, as the case may be, constitutes the benches of Lok Adalat at District level and Sub-Divisional level. Each bench is comprised of two or three members viz. a sitting or retired judicial officer; a member of legal profession, and a social worker, Medical practitioner or para legal of the area. But it has been noticed that in some of Lok Adalat benches, certain individuals have been participating as members of Lok Adalat for the last several years. This practice narrows down the scheme of the Act which encourages participation of as many people as possible on different occasions. Therefore, to implement the object of the Act different persons should be asked to participate in various Lok Adalats as their members. The Lok Adalat is an unique institution where different persons as its members actively apply their mind for finding the solution of the dispute.

2.2 Jurisdiction of Lok Adalat

Section 19(5) of the Act relates to the jurisdiction of the Lok Adalat and says that a Lok Adalat has jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of any case pending before any court, or any matter which is falling within the jurisdiction

13. Supra note 10, Reg. 20.
of any court but is not brought before such court. However, it has no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

Section 19(5) is of a very wide amplitude. It confers the widest possible jurisdiction on the Lok Adalat in the sense that the Lok Adalat can deal with any matter irrespective of its legal character and irrespective of the Court or Tribunal in which it might be pending and even when it is not so pending and is still at a pre-trial stage. It means a Lok Adalat is also empowered to decide a dispute which a concerned regular competent court has jurisdiction to entertain and try the same, but which in fact has not been instituted before it.\textsuperscript{14} So, it is not necessary that to confer power on a Lok Adalat, the dispute must be first filed before a Court.\textsuperscript{15} However, criminal matters which are not compoundable have been kept outside the purview of a Lok Adalat. Serious crimes, therefore, are beyond the ambit of a Lok Adalat but all other cases come within the sway of a Lok Adalat.\textsuperscript{16} It means that the Lok Adalat shall not have jurisdiction to determine or to arrive at a compromise or settlement regarding any case or matter relating to an offence not compoundable under law. Therefore, it is not permissible for the Lok Adalat to settle a case or matter concerning with an offence punishable under Section 397 of Indian Penal Code which is a non-compoundable one.\textsuperscript{17}

The upshot of the above provision is that Lok Adalat is empowered to settle the various types of cases viz. civil cases, revenue cases, compoundable criminal cases, insurance cases, motor accident claims tribunal cases, mutation of lands, land

\textsuperscript{14} A. Ahmed Pasha v. C. Gulnaz Jabeen, AIR 2001 Kant 412 at 422.
\textsuperscript{15} Moni Mathai v. Federal Bank Ltd., Arakkunnam, AIR 2003 Ker 164 at 169.
\textsuperscript{16} Abdul Hasan v. Delhi Vidyut Board, AIR 1999 Del 88 at 90.
\textsuperscript{17} State of Kerala v. Ernakulam District Legal Service Authority, AIR 2008 Ker 70.
pattas, electricity cases, forest land cases, labour disputes, matrimonial and family disputes, bank loan cases, cases under Section 138 of Negotiable Instruments Act, etc.\textsuperscript{18}

This jurisdiction of the Lok Adalat is hedged by the expression ‘to determine and arrive at a compromise or settlement’. In Legal terminology, it connotes the jurisdiction that could be exercised by the Lok Adalat but cannot extend to deciding a dispute where one of the parties is not amenable or agreeable to a compromise or settlement. The moment one of the parties to the dispute express unwillingness to arrive at a compromise or settlement, the Lok Adalat would stand stripped of its jurisdiction to deal with the dispute in any manner.

An important question regarding the jurisdiction of Lok Adalat has been discussed by High Court of Kerala in the case of State of Kerla v. Ernakulam District Legal Service Authority.\textsuperscript{19} In this case, an award was issued by the Lok Adalat which contained a decision to request an investigating officer to do a particular thing in a particular manner, to file a refer report on the basis that the complaint was made on a misunderstanding or mistake of fact. The question raised before the High Court whether such request come under scope of proceedings of Lok Adalat or not. The court held that such request has to be read only as a command to the investigating officer and not a request. Hence, the such award passed by Lok Adalat is not permissible. Since investigating officers are ought not to be instructed by anybody else. Otherwise, the transparency of such process would be lost: the credibility of the institution would be lost; reckless complaints could be made or; validity and truthful complaints disclosing the commission of


\textsuperscript{19} AIR 2008 Ker 70.
cognizable offences, including non-compoundable ones, could be settled without the due process of law and taken away from the purview of the investigating, prosecuting, adjudicating and sentencing. This is clearly impermissible. For the above said reasons, such part of award was quashed by High Court.

It is worthwhile to note the recent judgment of the Kerala High Court in which the Court has examined in detail the question whether the anticipatory bail application for its disposal can be referred to Lok ADalat or not. In the case of *Sreedharan T. v. Sub. Inspector of Police, Balussery Police Station*, the High Court has discussed the issue in the light of various provisions of the Act and observed that the proviso to Section 19(5) lays down that a Lok Adalat shall have no jurisdiction in respect of any case or matter “relating to” an offence not compoundable under any law. The bar under the proviso is not against referring a case “involving” a non-bailable offence but, it is only in disposing of a case or matter “relating to” a non-bailable offence. The peculiar language in the proviso is striking. Instead of saying that there will be a bar in disposing of a case or matter “involving” a non-bailable offence, what is laid down is that a Lok Adalat shall have no jurisdiction in respect of any case or matter “relating to” an offence not compoundable under any law. Because a civil dispute which is identified as the “matter” in the “case” cannot be said to be “relating to” a non-compoundable offence. But, the civil dispute can be the main causes for the incident in which various offences are committed, if such dispute can be solved or settled at the root, it may be possible to prevent further commission of other offences. If not, it may multiply litigations both civil and criminal and there may not be a permanent solution for their problem, unless the Court intervenes and takes appropriate

20. 2009 CriLJ 1249 (Ker).
steps to settle the civil dispute. Hence, there will be no bar in referring a “case” to the Lok Adalat if the court identifies a matter therein which is a civil dispute existing between the parties, even if “case” involves any non-compoundable offence.

The Court further stated that there is no blanket-ban under the Act, either in referring a case or matter which "involves" a non-bailable offence for disposal by the Lok Adalat. The bar under the proviso to Section 19(5) will apply only in respect of the case or matter ‘relating to’ the non-bailable offence. If the case or matter is not relating to a non-bailable offence, the Lok Adalat shall have jurisdiction to dispose of such a case or matter. For example, it shall not dispose of by “compromise” or “settlement”, the dispute relating to the offence of murder or rape. Whether a murder or rape is committed or not, cannot be dealt with by the Lok Adalat. But, even in such cases, in my considered view, there may not be a bar in disposing of a civil dispute existing between the relevant parties or some other dispute or any such similar “MATTER” which is not “relating to” the non-compoundable offence and which the court finds to be an appropriate one to be taken cognizance of by the Lok Adalat.

Further, the Court answered that the Lok Adalat is not empowered to determine the anticipatory bail application and highlighted the reason that as per Section 19(5)(i), of the Act, a Lok Adalat has jurisdiction to dispose of any case except non-compoundable offence pending before a court only if it can arrive at a compromise or settlement between the parties to a dispute. As per Section 2(a), the term ‘case’ includes a suit or any proceeding before a court. Section 2(aaa) defines ‘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. While an application for anticipatory bail is a proceeding under Section 438 of the Criminal Procedure Code pending before a criminal court and hence, it is a case which can be referred to Lok Adalat. But Lok Adalat cannot dispose of such application because an anticipatory bail application is not a proceeding which is disposable by any such compromise or settlement while it can be disposed of in a judicious manner.

The High Court has specifically emphasized on the question what can be disposed of by the Lok Adalat, on reference of an anticipatory bail application is, the “MATTER” which is latent in the case and not the anticipatory bail application itself. Even if the court has not specified what such "MATTER" is, while referring a case, the Lok Adalat can identify any appropriate matter and dispose of the same. But, it must take care to see that it disposes only the “matter” which it has jurisdiction to dispose of. Therefore, when an anticipatory bail application or any other case is referred to the Lok Adalat, if the court has not specified what the “matter” is, the Lok Adalat shall take effort to identify the “MATTER” which is disposable by the Lok Adalat. (In this case, it is specifically mentioned in the order of reference that the matter was civil dispute). Even if any “matter” is indicated/mentioned in the order of reference or not, the Lok Adalat may by itself find out the same, in the course of the conciliation/mediation/ settlement talk and such matter shall be disposed of by the Lok Adalat. But, in such cases, the Lok Adalat shall dispose of only such “MATTER” and not the “CASE” itself. Therefore, the disposal of an anticipatory bail application by the Lok Adalat is clearly illegal and without jurisdiction.21 In the light of this judgment, it may be said that non-bailable offences can be referred but not disposed of by

21. Ibid.
Lok Adalat. But the Lok Adalat can only determined the matter in such non-bailable offence.

Some times in a criminal case, the police officer invoke such Section of Indian Penal Code which seems to be non-compoundable in beginning of the case but on examination it may find out that the offence is not serious crime. Now the question arise whether such cases can be referred to Lok Adalat. The Allahabad High Court in State of Karnataka v. Gurunath,22 has clarified the position by highlighting the legislative intention behind the legal services Authorities Act and specified that Lok Adalat has no jurisdiction in respect of any case or matter relating to non-compoundable offence. But merely because the Police may invoke a particular Section which may appear to be non-compoundable, that ipso facto the jurisdiction of the Lok Adalat will not be barred provided the following factors are prevalent. If on an examination of the material i.e. the evidence and in particular the injuries it clearly emerges that had a Court even come to the conclusion that the accused was guilty, that the conviction would only be under a lesser offence. For instance, where the charge-sheet may invoke Section 326, IPC but the statements and the medical certificates only make out a charge under Section 323, IPC or Section 324, IPC; the reference to the Lok Adalat would not be bad in such a situation. This is an Important clarification because we have come across many instances where there is suspicion that the injury is more serious, than it actually was, such as to where there is suspicion that fracture has occurred and Section 326 IPC or Section 307 IPC is originally invoked, which on a subsequent examination of the material before the Court is wholly unjustified. The Court further emphasised that the Legislature has intended through

22. 2000 CriLJ 1192 at 1194 (All).
this enactment to put an end to a large number of disputes wherein cases are pending before the Courts and where, in the general and social interest a compromise is far more desirable. Thus, if the authority is satisfied that the parties have willingly compromised the dispute, the enactment provides for a closure of the proceedings and that laudable objective should not be frustrated merely on technical grounds that the charge-sheet may mention a Section that is not compoundable. Therefore, the judgment expands the jurisdiction of Lok Adalat even in such cases which at the time institution of the case appears to be related to non-compoundable offences.

Recently an important issue regarding the jurisdiction of Lok Adalat has been raised before the High Court of Jammu and Kashmir whether the Lok Adalat can ignore the statutory condition of a Act while disposing of the case can only be decided as per provisions of such Act. In the case of Joti Sharma v. Rajinder Kumar, the application for divorce by mutual consent had been referred by trial court to Lok Adalat for settlement. Such application was decided by Lok Adalat within one month by violating the provision of Section 15(2) of the Hindu Marriage Act, where under after institution, such application is required to lie over for six months and then come up only if either of the parties has not withdrawn his or her consent in the meanwhile. The court said about the importance of this provision that it is incorporated in Hindu Marriage Act to persuade the warring couples to maintain their matrimonial relations and save them from breaking up. The basic object of this provision is to give a breathing time to couples to rethink the consequences, etc. of their separation and to prevent their marriage from breaking down and try to settle down amicably. So, it could not have been overlooked by the Lok Adalat while

disposing of the reference. Because Lok Adalat cannot be expected to give a go by to express provision of law while trying settlement of disputes for the reason, that if done it may not only lead to arbitrariness, but also convert the dispute resolution system into a system of faulty adjudication, resulting in some sort of legal anarchy. Hence, the Lok Adalat is not empowered to violate the provisions of a Law while settling a dispute.

In another important case the High Court of Kerala has ruled that the Lok Adalat has power to make an award touching the rights of minor. In Merlin alias Sherely Augustin v. Yesudas, the High Court held that the rigor of Order 32, Rule 7 of the Code of Civil Procedure need not, by itself, deter a Lok Adalat from arriving at a compromise in a matter in which the interest of a minor is involved. Because the strict rules of procedure provided in Order 32, Rule 7 relating to prior sanction by the Court to record a compromise on behalf of the minor would govern the parties before the civil court, such provision is not mutatis mutandis applicable to Lok Adalat. However, in the circumstances of the situation in which a minor is placed, it will be appropriate for the Adalat to ensure that a compromise is entered and recorded on behalf of a minor with the leave of the Adalat which could be granted on a proper application in that regard. Again having in mind the duty of the Lok Adalat to be guided by principles of justice, equity, fair play and other legal principles. So much so, if the next friend or guardian of a minor applies to the Lok Adalat for leave to enter into any agreement or compromise on behalf of the minor with reference to the subject-matter of the reference before the Lok Adalat, it would be well within the jurisdiction and authority of the Lok Adalat to grant such leave on being satisfied that the

24. AIR 2007 Ker 199.
agreement or compromise is for the benefit of the minor. In granting such leave, it would be open to the Adalat to take stock of the entire fact situation and also insist on an affidavit being filed by the guardian to the effect that the agreement or compromise proposed, is for the benefit of the minor. Further Court directed that in a matter where a minor is involved, a compromise or settlement between the parties could well be accepted and acted upon by the Lok Adalat, if it is satisfied on such materials as may be produced or called for by it, that the settlement is in the interest of the minor also and that such settlement does not, in any manner, impair the interest of the minor and has not been made to defeat any interest of the minor. It can also be ensured that the person acting on behalf of the minor to arrive at the settlement, does not have any interest contrary to that of the minor in the case in question. If such yardsticks are applied and a settlement or a compromise involving a minor is recorded and let to fructify into an award in terms of the Act, such deemed decree is sufficient enough to take care of the interest of the minor and also to bind the minor, in which event, recourse to provisions and procedures before the Court of Wards would be unnecessary.\(^{25}\)

In this backdrop it is clear that Lok Adalats are authorized to settle all kinds of cases or matters which are pending before the court or at pre litigation stage. Therefore, the Lok Adalat has wide jurisdiction which include the civil, revenue, labour, family, pension, electricity bills, MACT, property, and compoundable criminal cases. However, the crimes of serious nature are kept beyond its purview but these disputes can be referred to Lok Adalat only to settle the latent civil matter involved in such cases. As above discussed, the Lok Adalat can resolve the disputes of various nature which are

governed by specific Act such as Partnership Act, Hindu Marriage Act, Sales of Goods Act, Negotiable Instruments Act, etc., but it does not have power to violate the statutory provisions and the objects of such Act.

2.3 References of Cases to Lok Adalat

Another significant provision is Section 20 which provides for when a particular Lok Adalat could take cognizance of cases for the purpose of compromise or settlement between the parties thereto, and it also prescribes the manner in which such cases will have to be dealt with by it. The Sub-Sections of (1) and (2) of Section 20 of the Act, are related to the procedure of reference of cases to the Lok Adalat. A Lok Adalat can take cognizance of a case where the parties agree to refer the same to it, or, where one of the parties makes an application to the court, for referring the same to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such a settlement, it can make a reference to the Lok Adalat.

26. Sec. 20(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.

27. Sec. 20(2) follows: Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising 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 Sec. 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.
Even without the parties agreeing for a reference of a case to the Lok Adalat and without any application from any of the parties for such a reference the Court on its own motion, on being satisfied that the matter is an appropriate one to be taken cognizance by the Lok Adalat, can refer the same to the Lok Adalat. Thus, it would be seen that in an appropriate case the court is also empowered to refer the matter to a Lok Adalat without the consent of the parties. But, such reference must be made only after providing a reasonable opportunity of being heard to the parties.

Besides the Court, the authority or committee organizing the Lok Adalat, on receipt of an application of any one of the parties of any matter which has not been brought before the court, can refer the same to a Lok Adalat. But reference in such cases is to be made only after providing reasonable opportunity of hearing to the parties by the concerned authority or committee. Therefore, it is obvious that pending cases are referred to Lok Adalat by the Courts whereas the pre-litigating matters are sent only by the concerned authority or committee.

For the reference of cases in Haryana, the Secretary of the District Authority or the Chairman of the Sub-Divisional Legal Services Committee, as the case may be, calls for the judicial records of those pending cases which are referred to the Lok Adalat from the concerned Courts. If any matter is referred to the Lok Adalat on the pre-litigation stage, the version of each party is obtained by the such Secretary or the Chairman. Such Secretary or the Chairman, as the case may be, is responsible for the safe custody of the records from the time he receives them from the court till these are returned. Each Judicial Authority to cooperate in transmission of the Court records. The judicial records are returned immediately after holding the Lok Adalat, irrespective of whether or not the case is settled by
the Lok Adalat with an endorsement about the result of the proceedings. The procedure is related to reference of cases to Lok Adalat.

It is manifest, that the existence of a dispute before the Civil Court in a pending case is a sine qua non. If there is no dispute obviously the same cannot be referred to the Authority for settlement. The other conditions for making a valid reference before Lok Adalat are embodied in Sub-Sections (1) and (2) of Section 20 of the Act. Unless these conditions are satisfied, Lok Adalat has no jurisdiction to take cognizance of a matter or dispute, even if referred to it by court or authority or committee organizing Lok Adalat.

The phrase “if such Court is prima facie satisfied that there are chances of such settlement” occurring in Section 20(1)(i) makes it crystal clear that this provision is not a mandatory provision of law and that it gives sufficient discretion to the Court either to allow or to reject an application made by a party to the case, in the light of peculiar facts and circumstances thereof. On the other hand, for a Court to refer a case to Lok Adalat on an application by only either party to a case, the said phrase casts an obligation on the Court to apply its mind to the facts of the case and the nature of the dispute, and to get itself satisfied that there are sufficient chances of settlement of the dispute at the Lok Adalat and therefore, the reference of the case by it to Lok Adalat is justified. The proviso to Section 20(1) further enjoins that this exercise has to be done by the Court only after hearing the opposite party and on due consideration of his objection. While sub-clause (a) of the existing Section 20(l)(i) also makes it mandatory on the part of

28. Supra note 10, Reg. 21.
the trial Court to refer a case to the Lok Adalat, if the parties thereto agree for the same. But then, there is no such obligatory duty placed on the trial Court to refer or not to refer the case to the Lok Adalat as in sub-clause (b) of Section 20(1)(i).³¹

But in the case of Sreedharan T. v. Sub Inspector of Police, Balussery Police Station,³² the High Court held that a Court can refer any case pending before such court to Lok Adalat under two circumstances: (i) on a motion made by the parties to a dispute in respect of a case, and (ii) suo motu, by the court, if the court is satisfied that in such case, the matter is an appropriate one to be taken cognizance of by the Lok Adalat, then it shall refer the case to the Lok Adalat. Here, it is relevant to know the meaning of the expressions ‘case’, ‘matter’ and ‘court’. Section 2(a) says that the term ‘case’ includes a suit or any proceeding before a court. But the expression ‘matter’ has not been defined in the Act. Going by the Oxford Dictionary, ‘Matter’ means “a subject or situation that you must consider or deal with.” While the meaning of the term ‘Court’ is defined under Section 2(aaa) of the Act which means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law, to exercise judicial or quasi-judicial functions. Therefore, in the light of meaning of these terms, ‘a case’ which is pending before a court, if the courts finds that a “subject or situation that the court must consider or deal with”, and if it is an appropriate one to be taken cognizance of by the Lok Adalat then, it shall refer the ‘case’ itself to the Lok Adalat. This is mandatory under Section 20(2)(ii).

³¹ Supra note 14, 427.
³² Supra note 20, 1253.
The civil court even if prima facie is satisfied that there are chances of settlement, still it is barred from acting thereunder if the proviso to Section 20 is not complied with by giving a reasonable opportunity to the parties. Compliance with such proviso is condition precedent for reference by the civil court. When the reference made is not valid in the eye of law, the Lok Adalat would not derive jurisdiction to determine any dispute and the Lok Adalat cannot take cognizance of the case.\textsuperscript{33}

An important question has been discussed by the High Court of Karnataka in case of \textit{A. Ahmed Pasha v. C. Gulnaz Jabeen},\textsuperscript{34} whether the eligibility criteria fixed by Section 12 of the Act read with Rule 11 of the Rules of 1996 would be applicable also to a party to a case pending before the court, when he applies to the Court for a reference of his case to the Lok Adalat for settlement of the dispute. The High Court held that on examination of the object and subject of the Act, the text of its relevant provisions and their context, it is found that the criteria laid down in Section 12 for a person to qualify to claim eligibility for the benefit of legal services under the Act are not attracted and applicable to the parties to a case pending before a court, and which case is the subject of reference to a Lok Adalat in exercise of trial Court’s power under Section 20(1) of the Act. In this behalf, it is necessary to take a look at the Statement of Objects and Reasons appended to the Bill when introduced in Parliament for legislation of the Act. The reasons as follows:

“For some time now, Lok Adalats are being constituted at various places in the country for the disposal. In a summary

\textsuperscript{33} \textit{Commissioner, Karnataka State Public Instruction (Education), Bangalore v. Nirupadi Virbhadrappa Shiva Simpi}, AIR 2001 Kant 504 at 508.

\textsuperscript{34} AIR 2001 Kant 412.
way and through the process of arbitration and settlement between the parties, of a large number of cases expeditiously and with lesser costs. The institution of Lok Adalats is at present functioning as a voluntary and conciliatory agency without any statutory backing for its decisions. It has proved to be very popular in providing for a speedier system of Administration of Justice. In view of its growing popularity, there has been a demand for providing a statutory backing to this institution and the awards given by Lok Adalats. It is felt that such a statutory support would not only reduce the burden of arrears of work in regular courts, but would also take justice to the doorsteps of the poor and the needy and make justice quicker and less expensive.”

Similarly, second part of the object of the Act as stated in its preamble is to organize Lok Adalats with a view to ensure that the operation of the legal system in the country promotes justice among citizens on a basis of equal opportunity. This portion of preamble of the Act is more broader in its width and sweep aims at securing successful operation of the legal system towards effective furtherance and promotion of justice among the litigant public. It is needless to state that quicker and inexpensive justice to the disputant parties is an essential feature of any legal system to effectively promote justice, of course, on a basis of equal opportunity. As far as work load pending in all regular Courts of our country is concerned, it is an universally acknowledged fact that the Courts are saddled with heavy and unwieldy burden of arrears of judicial work and it has reached the point of alarming proportion. It is in this backdrop of the disturbing situation of the ever mounting pendency of the work load in regular Courts, and the benefits of the Lok Adalat the Parliament has legislated the Act to provide alternative fora in the form of Lok Adalats for decision and
disposal of the cases by functioning within the schemes framed under the Act, so that the arrears of work in regular Courts be reduced to considerable extent, and quick and inexpensive or less expensive justice be made available to the needy parties and litigants. If the limitations, prescribed by Section 12 and Rule 11 of the Rules of 1996 for a person's right to seek legal services under the Act are to be read as operating on and controlling the exercise of the power of trial court in referring any suitable pending case to a Lok Adalat for settlement, this laudable object of the Act would get defeated, and such an interpretation of any statutory provision would be impermissible and unwarranted.\(^{35}\) Therefore, it means that Lok Adalat has wide power to take cognizance of the case or matter of any party irrespective of his caste, religion, sex, race, wealth and income, etc.

In another case,\(^{36}\) it has been observed by High Court of Bombay that on plain language of Section 20 it is seen that, the Court before whom the case is instituted and pending shall refer the case to the Lok Adalat for settlement, if the parties thereto agree to opt for redressal of the dispute before that forum. But when only one of the party to the dispute makes an application to the Court for reference of the case to the Lok Adalat for settlement, even in such a situation the Court shall refer the dispute to the Lok Adalat for settlement, but in this case the additional requirement is that the Court should be prima facie satisfied that there are chances of such settlement. Whereas, the third situation perceived by clause (ii) of sub-Section (1) of Section 20 enables the Court to refer the case to the Lok Adalat on its own if it is satisfied that the matter is an

\(^{35}\) Ibid.  
appropriate one to be taken cognizance of by the Lok Adalat. In the third category whether the parties to the dispute, either singularly or jointly, agree for reference does not arise, but the quintessence for invoking this provision is that the Court must be satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat and nothing more. However, in view of the proviso to sub-Section (1), before making reference, the Court shall give reasonable opportunity of being heard to the parties. A fortiori, it will be preposterous to hold as contended that the Court has no authority to refer a case on its own even though it is satisfied that the case is an appropriate one for reference to the Lok Adalat for settlement. It is wholly unnecessary for the Court to investigate whether there are chances of settlement. The purpose of such reference is to explore the possibility of conciliation with the mediation of an independent agency which has the expertise in that behalf and statutory backing for its decision. The purpose of relegating the parties first to the Lok Adalat is obviously for conciliation. In matters like the present one, it is the bounden duty of the Court to first explore the possibility of settlement. Such approach alone would serve the legislative intent of creating Lok Adalats and of providing them statutory backing for its decision. Any other view would not only frustrate the legislative intent but also result in affecting the authority of the Courts to the extent it enables the Court to require the parties to submit to the jurisdiction of Lok Adalat in cases where the Court is satisfied that case is an appropriate case to be referred to the Lok Adalat.

Recently in the case of Shashi Prateek v. Charan Singh Verma,37 the High Court has laid down stress upon the duty of court while referring the matter to Lok Adalat and directed that

37. AIR 2009 All 109 at 114-115.
the court below is required to examine the fact as to whether both the parties are agreed to refer the matter before the Lok Adalat or not, or if the reference is made by court itself as to whether the parties of dispute are afforded reasonable opportunity of being heard before such reference or not? If the reference is made at the instance of one of the parties in respect of the matter or dispute as to whether other party is heard before making the reference to the Lok Adalat or not? Unless conditions laid down under Section 20 (1) and (2) are satisfied, which are sine qua non for valid reference before the Lok Adalat, it can have no jurisdiction to settle such referred dispute. But from the perusal of impugned judgment passed by Lok Adalat it is clear that while deciding the application moved by the petitioner Lok Adalat did not examine the aforesaid aspect of the matter. Therefore, unless the aforesaid condition precedent for taking cognizance of case was found satisfied Lok Adalat has no jurisdiction under Section 20 of the Act to take cognizance of the aforesaid dispute referred to it and award, if any, made by Lok Adalat is without jurisdiction and nullity.

In Commissioner, Karnataka State Public Instructions (Education), Bangalore v. Henamant,38 the High Court held that when the very reference of case to the Lok Adalat is in contravention of the provisions of the Act, as the Court could not have referred the matter to the Lok Adalat when both the parties to the suit had not consented for the matter being referred to the Lok Adalat. The Court has not recorded any consent of the parties to the suit for referring the matter to the Lok Adalat and in such circumstances, the Lok Adalat does not get any jurisdiction to look into the matter at all. The Trial Judge is also directed to ensure that matters which are to be referred to the Lok Adalat are done so only after the parties

38. AIR 2002 Kant 446.
involved in the suit voluntarily consent for such reference to the Lok Adalat and not either by pressurizing them or if anyone of the parties to the suit indicate the unwillingness for referring the matter to the Lok Adalat. Therefore, no pressure or force should be put upon the parties of a pending case by Court in order to refer the case to the Lok Adalat but only convince the parties about the benefits of Lok Adalat

It is suggested by the High Court in the case of Sreedharan T. v. Sub-Inspector of Police, Balussery Police Station,\textsuperscript{39} that whenever a case is dealt with by the court, it must take every effort to ensure that the parties get a permanent solution for their problem and that too, within the shortest span of time. This may be possible if the court goes to the root of the matter in every case, and finds out what exactly had led to the particular litigation and ascertains the cause for the disharmony. On identifying such cause, it must see whether it is an appropriate one which can be taken cognizance by the Lok Adalat. If it is such a matter, it SHALL be referred to the Lok Adalat. This may be essential to do complete justice to the parties. The Court further said that if the dream of the legislature were to become a reality, in the interest of the benefit of the litigant public, the court shall not deal with matters pending before it in a casual manner, mechanically adopting the ordinary procedure which will be time-consuming to bring a litigation to an end. So, in each and every case, whenever and wherever possible, the Court must identify the ‘matter which is latent in a “case” and it must act at the very initial stage itself. Any ritualistic method adopted in disposal of a case pending before court will not at any rate do substantial justice to the cause nor to the vibrant provisions in the special enactments and provisions. In the wake of the relevant

\textsuperscript{39} Supra note 20, 1256.
provisions in the Legal Services Authorities Act and the like, the courts shall not be technical in its approach to a litigation. While dealing with cases, courts must take every effort to give a permanent solution to the issues at the earliest stage. If the court looks at every case pending before it with such earnest eyes, it can certainly find out ways and measures to undo, a harm or even prevent another and put a stop to the breeding of litigations with out any delay.

Therefore, it is evident that the cases or disputes are referred to Lok Adalat either by the Court where the case is pending or by the concerned authority or committee who is authorized to organize Lok Adalat. The pending cases can be sent to Lok Adalat on the request of both the parties or on the application of any one party to the dispute or by the court *suo motu*. Whereas, on the other hand, the matters at pre-litigation stage can be referre to Lok Adalat by the respective Authority or Committee on the application of any one of the parties to matter. The cases or disputes can not be sent by the court or authority or committee by pressurizing the parties and without their consent. The Court must try to convince the parties, for the settlement of their case through the Lok Adalat by explaining the benefits of Lok Adalat. But the reference can be made only after complying the conditions laid down in the Sub-Section (1) and (2) of Section 20 otherwise such reference can not be held valid and the Lok Adalats will not have jurisdiction to settle such referred cases or matter. Because, these conditions are primary rules for the cognizance of cases which should be satisfied.

2.4 Procedure of Lok Adalat

Lok Adalats are organized with the object to provide speedy justice and to settle the dispute in friendly atmosphere. Therefore, when a case or matter has been referred to Lok
Adalat, then it is required to proceed to dispose of the matter by arriving at a compromise or settlement between the parties.\textsuperscript{40} The Lok Adalat is also required to make efforts with utmost expedition to arrive at a compromise or settlement between the parties by following the principles of justice, fair play and other legal principles.\textsuperscript{41} The necessary condition for settlement of the case is that parties to the dispute must be present before the Lok Adalat. For this purpose the Secretary of the District Authority or the Chairman of the Sub-Divisional Legal Services Committee, as the case may be, convening and organizing the Lok Adalat shall inform every litigant and his counsel, whose case is referred to the Lok Adalat, well in time so as to afford him, an opportunity prepare himself for the Lok Adalat.\textsuperscript{42}

The Secretary or Chairman, as the case may be, assigns cases to the benches of the Lok Adalat and prepare a cause list for each bench of the Lok Adalat and the same shall be duly notified to all concerned. Every Bench of the Lok Adalat shall make sincere efforts to bring about a conciliatory settlement in every case put before it without any duress treat or undue influence, allurement or misrepresentation. In case any Bench of the Lok Adalat cannot take up, hear or dispose of any case/cases on that day, it may be in its discretion to take up such case/ cases on the next day or on any such subsequent day as may be convenient, under intimation to the Secretary/Chairman of the Committee/Authority concerned. In

\textsuperscript{40} Supra note 8, Sec. 20(3) which says that where any case is referred to a Lok Adalat under subsection (1) or where a reference has been made to it under subsection (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

\textsuperscript{41} Id., Sec. 20(4) which reads as 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 principle of justice, equity, fair play and other legal principles.

\textsuperscript{42} Supra note 10, Reg. 19.
that case, judicial record may be kept with permission of the Court concerned.\footnote{Id., Reg. 22.}

The appearance of lawyers on behalf of the parties at the Lok Adalat is not refused. No fee is paid by the parties in respect of matters or cases brought before or referred to a Lok Adalat. The Secretary of the District Authority or the Chairman of the Sub-Divisional Legal Services Committee, as the case may be, shall provide all assistance as may be necessary to the Lok Adalats. Every Bench of the Lok Adalat may evolve its own procedure for conducting the proceedings before it and shall not be bound by either the Civil Procedure Code or the Evidence Act or the Code of Criminal Procedure subject, however, to the principles of natural justice.\footnote{Id., Reg. 32.}

The approach and practice to be followed by Lok Adalat in dealing with or disposal of such a case or matter is to make efforts to settle the dispute of the parties by using methods of conciliation, mediation and negotiation. In a case if the Lok Adalat fails to make an award on the basis of compromise and settlement then such case will be returned by it to the court from which the same was received for further proceedings.\footnote{Supra note 8, Sec. 20(5) says that 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 subsection (1) for disposal in accordance with law.}

When the reference of a matter is made by an authority or committee, to Lok Adalat and it has failed to pass an award, then it is required thereof to advise the parties to seek remedy in a court of law.\footnote{Id. Sec. 20(6) read as follows: 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.} As per Section 20(7), where the record of
When the matter is referred before the Lok Adalat, it is required to note that presence of the parties and satisfy itself that the parties have voluntarily, out of their own accord, with a free will, have entered into settlement. The purpose of Lok Adalat is only to help the parties to arrive at a settlement. The real settlement must be made by all the parties to the disputes. If some of parties are agreed on a settlement but others are not then such settlement will not be valid.

In *Kishan Rao v. Bidar District Legal Services Authority*, the High Court of Karnataka held that when the matter is referred to the Lok Adalat, the Lok Adalat is expected to look into the question whether all the parties to the suit are entering into settlement or compromise, because if all parties to the suit or dispute do not enter into compromise or settlement, then no award can be made on the basis of any compromise or settlement entered into between some of the parties only to the suit. The Lok Adalat is required to see that it shall with utmost effort on or settlement between the parties, be guided by the legal principles of justice, equity and fair play. When it is so, it is required to first examine and see whether all the parties to the litigation have entered into a compromise or settlement. Therefore, it is its duty to see that all parties present before it. If, some parties have entered into compromise and others are not willing for settlement, then the Lok Adalat has no jurisdiction to pass the decree, because the dispute remains uncompromised. In that event, no award can be passed by Lok Adalat.

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47. AIR 2001 Kant 407 at 410-411.
In *Sreedharan T. v. Sub-Inspector of Police, Balussery Police Station*, the High Court highlighted the procedure followed by Lok Adalats and held that the various provisions contained in the Act also make it clear that the Lok Adalat has no adjudicatory functions. It cannot pass any independent verdict/order/award arrived at by any decision-making process. It can only persuade the parties to the dispute, by any known methods of conciliation, mediation, etc., and with utmost expedition, to arrive at a compromise or settlement and determine the case in accordance with the bilateral compromise or settlement arrived at by them. The Court further cleared what is expected of by the Lok Adalat is to incorporate the terms of settlement or compromise arrived at by the parties to the dispute, in the presence of both parties in the form of an award and under their signature as well as the signature and seal of the Judges of the Lok Adalat. It is, in effect, more or less, like a compromise decree. No decision can be taken by the Lok Adalat unilaterally. But, many Lok Adalats are found to issue independent directions and orders, just as the courts do, after an independent adjudicatory process. This is totally contrary to the scheme and scope of the Act and it is impermissible also.

The High Court of Gauhati on the basis of examination of various provisions of the Act stated in the case of *New India Assurance Co. Ltd., v. Lohit Distt. Legal Service Authority*, that an award passed by a Lok Adalat must be based on the consensus arrived at by the parties concerned and not on the basis of adjudication of relative merit of the cases set up by the rival parties. The combined reading of sub-sections (3) and (5) of Section 20 makes it clear that no order directing payment of

48. *Supra note 20, 1251.*
49. *AIR 2008 Gau 166 at 173.*
compensation, or otherwise, be made by the Lok Adalat except when both parties to the proceeding reach at a compromise or settlement. Hence, when a Lok Adalat passes any order imposing a liability to pay compensation, under Section 166 of the Motor Vehicle Act, exparte or without a compromise or settlement having been reached by the parties concerned as regards the dispute or controversy which the case placed before the Lok Adalat involves, such an order would be ex facie against the provisions of Section 20. Such impugned order being wholly without jurisdiction, can not be sustained and shall, if allowed to survive, cause serious miscarriage of justice.

The High Court of Allahabad in *Shashi Prateek v. Charan Singh Verma*, 50 have made the similar observation and held that while deciding the application moved by the petitioner the Lok Adalat was required to examine the question as to whether the parties have in fact entered into compromise or not. In case it is found that they did not enter into compromise or settlement as alleged by petitioner that she was neither present before the Lok Adalat nor signed the compromise alleged to have been entered into the parties before Lok Adalat, in that eventuality Lok Adalat could not make impugned award, therefore, it was necessary for the Lok Adalat to recall the award and return the matter to the court from which the reference was made to it but the Lok Adalat has not done so and rejected the aforesaid application of the petitioner as not maintainable inasmuch as on the merits too. Such approach of Lok Adalat is erroneous and contrary to law.

The Apex Court by defining the terms of compromise and settlement, has discussed the scope of Section 20(3) in the cases of *State of Punjab v. Phulan Rani*, 51 and *Union of India v. *

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50. *Supra note 37, 115.*
51. AIR 2004 SC 4105 at 4107.
Ananto, and held that the specific language used in Section 20(3) 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 compromise is a mutual promise of two or more parties that are at controversy. 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. 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. The Supreme Court in these cases have laid down emphasise upon the compromise and settlement which should arrive at by disputants through the Lok Adalat. The Court has clarified that compromise does not prescribe the total surrender by one party but it shows the some element of accommodation from both sides on the basis of mutual consent of the parties. Therefore, the Lok Adalat has no jurisdiction to dispose of a case if no compromise or settlement arrived at by the parties.

The Supreme Court examined the significant question regarding with adjudicatory power of Lok Adalat in the case of State of Punjab v. Jalour Singh. The Apex Court discussed in

52. AIR 2007 SC 1561.
53. AIR 2008 SC 1209 at 1211-1212.
detail about the procedure as followed by Lok Adalats and held
that it is evident from the provisions of the Act that Lok Adalats
have no adjudicatory or judicial functions. Their functions
relate purely to conciliation. A Lok Adalat determines a
reference on the basis of a compromise or settlement between
the parties at its instance, and put its seal of confirmation by
making an award in terms of the compromise or settlement.
When the Lok Adalat is not able to arrive at a settlement or
compromise, no award is made and the case record is returned
to the court from which the reference was received, for disposal
in accordance with law. No Lok Adalat has the power to hear
parties to adjudicate cases as a court does. It discusses the
subject-matter with the parties and persuades them to arrive at
a just settlement. In their conciliatory role, the Lok Adalats are
guided by principles of justice, equity, fair play. When the LSA
Act refers to ‘determination’ by the Lok Adalat and ‘award’ by
the Lok Adalat, the said Act does not contemplate nor require
an adjudicatory judicial determination, but a non-adjudicatory
determination based on a compromise or settlement, arrived at
by the parties, with guidance and assistance from the Lok
Adalat. The ‘award’ of the Lok Adalat does not mean any
independent verdict or opinion arrived at by any decision
making process. The making of the award is merely an
administrative act of incorporating the terms of settlement or
compromise agreed by parties in the presence of the Lok Adalat,
in the form of an executable order under the signature and seal
of the Lok Adalat.

The Court further observed that many sitting or retired
Judges, while participating in Lok Adalats as members, tend to
conduct Lok Adalats like courts, by hearing parties, and
imposing their views as to what is just and equitable, on the
parties. Sometimes they get carried away and proceed to pass
orders on merits, as in this case, even though there is no consensus or settlement. Such acts, instead of fostering alternative dispute resolution through Lok Adalats, will drive the litigants away from Lok Adalats. Lok Adalats should resist their temptation to play the part of Judges and constantly strive to function as conciliators. The endeavour and effort of the Lok Adalats should be to guide and persuade the parties with reference to principles of justice, equity and fair play to compromise and settle the dispute by explaining the pros and cons, strength and weaknesses, advantages and disadvantages of their respective claims. The Court further noticed that the order of the Lok Adalat in this case, shows that it assumed a judicial role, heard parties, ignored the absence of consensus, and increased the compensation to an extent it considered just and reasonable, by a reasoned order which is adjudicatory in nature. It arrogated to itself the appellate powers of the High Court and allowed the appeal and ‘directed’ the respondents in the appeal to pay the enhanced compensation of Rs. 62,200/- within two months. The order of the Lok Adalat was not passed by consent of parties or in pursuance of any compromise or settlement between the parties, is evident from its observation that “if the parties object to the proposed order they may move the High Court within two months for disposal of the appeal on merits according to law”. Such an order is not an award to the Lok Adalat. Being contrary to law and beyond the power and jurisdiction of the Lok Adalat, it is void in the eye of law. Such orders which “impose” the views of the Lok Adalats on the parties, whatever be the good intention behind them, bring a bad name of Lok Adalats and legal services.\(^5\) From the abovementioned judgment, it is obvious that Lok Adalats are not authorized to function as the ordinary court while determining

\(^{54}\) Ibid.
the dispute. Lok Adalats are bound to pass an award in accordance with the terms of agreement between the parties. The primary duty of Lok Adalat is only to persuade the parties so that they may reach at compromise but it can not decide the matter as per its own views. It has to perform only conciliatory functions.

When notice was properly sent to the party but the party did not participate in the Lok Adalat’s proceedings. Lok Adalat can not pass the ex-parte award but it is bound to return the case to the court for further proceeding from which the case has been referred.\textsuperscript{55} Lok Adalat is guided by principles of justice, equity, fair play and other legal principles which also include degree of dependency of claimants which is an important factor for detemining apportionment in the motor accident claim cases.\textsuperscript{56}

In this backdrop, it is essential to say that the Lok Adalats are merely empowered to persuade the parties to arrive at a compromise or settlement. However, such compromise must not in the form of total surrender by one party. There must be some advantages to both the disputants by making a compromise with the held of Lok Adalat. The basic obligation of Lok Adalat is to act with utmost expedition to arrive at an agreement between the parties to dispute. For the said purpose, it is bound to follow the principles of justice, equity, fair play and other legal principles.

When Lok Adalat fails to settle the case or matter then such case is either returned to court from which it has been referred or the parties are advised to move in the court of law for relief. But in such circumstances, the Lok Adalat can not

\textsuperscript{55} \textit{Oriental Insurance Com. Ltd. v. Calcutta, High Court Legal Services Committee, AIR 2007 NOC 1177 Cal.}

\textsuperscript{56} \textit{Sairo Bano v. Bitthal Balu Godekar, AIR 2007 NOC 1876 MP.}
exercise the adjudicatory power because it is only authorized to determine the case by conciliation and persuasion methods. In a catena of cases, the Supreme Court and various High Courts clearly specify that Lok Adalat does not have power to decide the cases on the basis of facts, circumstances and evidences.

2.5 Award of Lok Adalat

Whenever a case or matter is settled by Lok Adalat, then it passes the award on the basis of compromise or agreement between the parties. Section 21 of the Act relates to the status and position of such award. It provides that every award of the Lok Adalat shall be deemed to be a decree of a Civil Court, or, as the case may be, an order of any other Court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it by the Court. The court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act. It is further stipulated that every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award. On a close reading of Section 21, it is clear that the award of Lok Adalat is deemed to be a decree of the civil court or orders of any other court or tribunal from which the case has been referred to Lok Adalat for settlement. The court fee paid in such cases has been made refundable and the finality has been attached to such order.

Every Award or order of the Lok Adalat is signed by the panel constituting the Lok Adalat. The original Award forms part of the judicial records and a copy of the Award is given to each of the parties duly certified to be true by the Secretary/Chairman of the Committee/Authority concerned, free of costs. Every Award or order of the Lok Adalat is categorical and lucid and is written in the language used in the

57. Supra note 10, Reg. 24.
local courts or English. The parties to the dispute are required to affix their signatures or thumb impression as the case may be on the statements/compromise recorded by or placed before the Lok Adalat. The Award is based upon the statement of the parties to the compromise duly recorded by it.\textsuperscript{58}

At the conclusion of the sessions of the Lok Adalat, the Secretary of the District Authority or the Chairman of the Sub-Divisional Legal Services Committee, as the case may be, compiles the results in the Annexed proforma for submission to the State Authority.\textsuperscript{59} The Secretary of the District Authority or the Chairman of the Sub-Divisional Legal Services Committee, as the case may be, maintains a Register wherein all the cases received by him by way of reference to the Lok Adalat are entered giving particulars of the date of receipt; category and subject wise nature of the case; such other necessary particulars; and date of settlement and return of the case file. When the case is finally disposed off by the Lok Adalat an appropriate entry will be made in the register.\textsuperscript{60}

The High Court of Kerala has directed to the Legal Services Authorities, Committees and Lok Adalat to comply strictly with the provisions of the Legal Services Authorities Act, the Rules and Regulations made under it. The Court has advised that the Lok Adalat should not dispose of the case by using adjudicatory methods but only by conciliatory methods in the case of Moni Mathai v. Federal Bank Ltd., Arakkunnam'.\textsuperscript{61} It was contended in this case that the award was passed by Lok Adalat without hearing the petitioners and without following the provisions of the Act, 1987 and regulations made under the Act and such award was also against the principles of natural

\textsuperscript{58} Id., Reg. 25.
\textsuperscript{59} Id., Reg. 26.
\textsuperscript{60} Id., Reg. 28.
\textsuperscript{61} AIR 2003 Ker 164 at 169-170.
justice. So, it must be quashed. The High Court held on this aspect that going by the terms of compromise and award, it can be seen that the petitioners had agreed to repay the entire amount with interest even after the disposal of the case until the entire amount is paid. So, the petitioners who are debtors have no gain or advantage by arriving such a compromise. It is very difficult to believe that a party voluntarily agreed for a compromise exactly on the terms suggested by the other side without any bargaining or making any concession. The petitioners did not get any legal assistance. There is nothing on record to show that the Bench told the petitioners about the legal consequences of the terms of settlement.

The Court further stated that the records produced in this case shows that while referring the matter to Lok Adalat by the District Authority no notice as contemplated under Section 20(2) was issued or the petitioners were heard. The Secretary did not inform the petitioners so as to afford them an opportunity to prepare themselves or did not obtain the version of the petitioners. Apart from the compromise there is nothing on record to show that the petitioners were heard or made aware of the terms of the settlement. There is violation of all the mandatory provisions of the Act and the Regulations. There is violation of the principles of natural justice and fair play also. The original award is not signed by the petitioners as provided under Regulation 33(1) but signed only by the Presiding Officer and the member. Similarly, the District Authority has not followed the procedure for maintaining the record of cases as provided under Regulation 38. In this backdrop, it is essential to quote the well settled position of law that when a special statute provides that a particular act shall be done in a particular manner it shall be done in that manner alone or not at all. Since Award is passed in violation of all the statutory
provisions also against the principles of natural justice, it is liable to be quashed. Finally, the court also suggested to the various authorities and committees, to follow the procedure prescribed under the Act, Rules and Regulations strictly. The Lok Adalats are also bound to follow the principles of natural justice, equity, fair play and other legal principles. The Lok Adalat shall also not forget that their duty is not to dispose of cases some how but settle cases amicably.

An important issue regarding the role of the State while making an appeal against the award of Lok Adalat has been discussed in the view of the objects of Lok Adalat by the Allahabad High Court in case of *State of Karnataka v. Gurunath*.\(^6\) The High Court held that the purpose of making references of cases to Lok Adalat is in order to reduce or lower down the load on the Courts and in order to bring about a degree of good feeling, compromise and atonement and that where such a reference is made with the full consent of both the parties and the approval of the Court, that unless it is demonstrated that the order is palpably wrong or that it has resulted in a gross miscarriage of justice or that it has set a wrong precedent, this Court would normally not interfere with the order. The Court noted that there is another principle of importance that emerges in this class of cases namely that having regard to the nature of the incident, the aggrieved party is the one who has sustained injuries and the one who has complained and if that party is satisfied with the decision and the terms and conditions on which the Court has disposed of the case, there can be no question of the State being aggrieved by this decision and consequently, there is hardly any justification for the State to come up in appeal on the ground that the State is the aggrieved party. On this point the Court

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62. *Supra note* 22, 1193.
viewed that having regard particularly to the abnornal work-load on the trial Courts, that it is highly desirable that cases of this category and those which qualify for such disposal should be referred to the Lok Adalats and disposed of. However, the Court made it clear that these observations are confined to the facts of this case and will not debar other aggrieved parties or for that matter the State if it is demonstrated that the order passed is palpably wrong in some other cases.

In a recent case of Valarmathi Oil Industries v. Saradhi Ginning Factory, during pendency a complaint under Section 138 of Negotiable Instrument Act had been referred to Lok Adalat for settlement. The Award was passed by Lok Adalat based on consensus arrived at between parties. However, such award came to be wrongly referred to magistrate and he convicted the accused under Section 138 of the Act. The High Court held that such impugned order would be illegal because judicial magistrate became functus officio to decide case after award was passed by Lok Adalat. In these circumstances, the award was executable as decree as per Section 21 of the Legal Services Authorities Act.

In Damera Raj Kumar v. Doli Srinivas, the petitioner and the respondent had compromised the matter outside the court. Then the matter was referred to Lok Adalat for recording the compromise and award was made by Lok Adalat. Such compromise was duly signed by the parties and their advocates. But now the award based on such compromise was challenged on the ground that consent of petitioner was taken by coercion and also by threats and hence the said consent is no consent at all. The High Court of Andhra Pradesh ruled that plea of coercion or obtaining of awards on threat predominantly are

63. AIR 2009 Mad 180.
64. AIR 2007 AP 14.
questions of fact. On such grounds it cannot be said that compromise arrived at by parties before Lok Adalat was vitiated.

Recently, in the case of Ambika Rajan v. Basheera Beevi, the High Court of Kerala has observed that the disposal of execution petition by Lok Adalat on the basis of compromise between the parties can not be treated as the disposal of suit. The Court held that Award of the Lok Adalat to be deemed to be a decree of the Civil Court, reference to the Lok Adalat shall be made by the Civil Court. In respect of matters referred to by other Courts, Section 21 provides that it shall be deemed to be an order of any other Court. When a decree was passed by a Civil Court and a reference was made to the Lok Adalat in the execution proceeding, there is no question of the award of the Lok Adalat being a decree of a Civil Court which would have the effect of substituting the decree already passed by the Civil Court. When a matter is settled between the parties before the Lok Adalat, after the matter was referred by the executing Court to the Lok Adalat, the award passed therein would be an award which is executable as an order passed by the executing Court on the basis of the decree already passed by the Civil Court. For that purpose, the award shall be deemed to be a decree. It only means that it can be enforced as a decree. Disposal of an Execution Petition can not be treated as disposal of the suit. The Execution Petition arises after a decree is passed in the suit. The compromise entered into between the parties in an Execution Petition can not be treated as a compromise in the suit. The procedure to be adopted, the issues/points to be decided and the decision to be rendered by the Court in a suit and in an Execution Petition are distinct and different.

The Court further stated that the combined reading of Section 19 (5) and Section 20 of Act would indicate that when

65. AIR 2009 Ker 151.
an Execution Petition is referred to the Lok Adalat, a compromise could be in respect of the disputes involved in the Execution Petition and not matters which are already settled as per the decree. The parties could however, agree in what manner the decree should be satisfied. But that does not have effect of a compromise entered into in the suit.\textsuperscript{66}

In \textit{Thomas Job v. P.T. Thomas}\textsuperscript{67}, The High Court of Kerala has examined the question whether the civil court can vary the terms of the award of Lok Adalat and held that an award passed by the Lok Adalat, though by a legal fiction created in Section 21 is equated to a decree, by no stretch of imagination can it be treated as a compromise decree passed by the Civil Court. The distinction is that in case pending before a Civil Court when the parties enter into a compromise and invite the Court to make an order in terms of the compromise, the Court passes a decree in terms of the compromise. When the terms of compromise becomes integral part of the decree passed by the Court and if a time is fixed for doing a particular act in that decree, the Court gets jurisdiscution to extend that time in appropriate cases. But the Lok Adalat is not a Court and does not possesses any of the powers of a Civil Court conferred on it under the provisions of the Code of Civil Procedure. It is a body created under the provisions of a statute and is having only those powers conferred on it under the provisions of the Legal Services Authority Act. The Lok Adalat only certifies an agreement entered into between two parties as true and the original award itself is to be signed by the parties and the penal constituting the Lok Adalat. There is no provisions which enables a party to a compromise decree to affix his signature in the decree. So, the time fixed by the parties for the performance of the particular

\textsuperscript{66.} \textit{Ibid.}
\textsuperscript{67.} AIR 2004 Ker 47 at 50.
act and reduced into writing and signed by the parties and attested by the penal of Lok Adalat stands on an entirely different footing from a compromise decree passed by a Civil Court. So, the Civil Court gets no jurisdiction to vary the terms of the award or extend the time for the performance of obligations agreed to between the parties to such as award.

But in an appeal against this order of Kerla High Court, the Apex Court has cleared the status of award of Lok Adalat and held in the case of P.T. Thomas v. Thomas Job, that the award of the Lok Adalat is deemed to be decrees of court and therefore the courts have all the powers in relation thereto as it has in relation to a decree passed by itself. It includes the extension of time for execution of the award. The court viewed that the High Court has failed to note that the courts attempt should be to give life and enforceability to the compromise award and not to defeat on technical grounds. The High Court is also not correct in holding that the court has no jurisdiction to extend the time. In our view, the respondent ought to have been directed to execute the sale deed by the extended time.

In the case of Sumer Singh v. Shaukat Hussain, the Court held that if the award passed by Lok Adalat on the basis of compromise and such compromise is signed by counsel then the award passed on basis thereof would be valid and binding. The award of Lok Adalat can not be modified or revised or appealed against because it is deemed to be decree of civil court.

After examining the catena of cases, it is worthy of mention that Lok Adalat can only pass the award in accordance with the terms of compromise between the disputants. Such

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68. AIR 2005 SC 3575.
69. AIR 2008 Raj 107.
70. Divisional Manager of United India Insurance v. Muktamani, AIR 2008 NOC 2516 Ori.
award is equated to the decree of a civil court or an order of any other court or a tribunal from which the case has been referred to Lok Adalat for settlement. Such award must be made by Lok Adalat by following the provisions of Act, Rules and Regulations formed under the Act. Any award passed in violation of the statutory procedure, shall be held invalid. While formulating the award on the basis of consent of the parties, the Lok Adalat is also bound to comply with the provisions of the Act.

2.5.1 Right of Appeal

The award of Lok Adalat is final and binding and no appeal can lie against such award. We will examine this provision on the basis of judicial decisions.

In this context, it is worth mentioning, the case of *Punjab National Bank v. Lakshmi Chand Rai*,71 where the High Court of Madhya Pradesh has examined in detail the issue whether an appeal can be filed against the award of Lok Adalat and held that in the furtherance of the aims and objects of the Legal Services Authority Act, it is one of the functions is to encourage the settlement of disputes by way of negotiations, arbitration and conciliation. The idea is to see that litigation comes to an end by way of mutual conciliation, arbitration and negotiations. In the said context it is to be considered whether finality once reached in Lok Adalat should be allowed to be challenged by way of filing an appeal under Section 96 of CPC against the said decision. The provision has been made in the Act itself under Section 21(2) that no appeal shall lie to any Court against the award made by Lok Adalat. The award shall be final and binding on all parties to the case. Similarly, Section 25 of the Act provides a non obstante clause and gives the Act an overriding effect on any other law. Section 25 of the Act runs as under

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71. AIR 2000 MP 301 at 303–304
“The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

This provision of the Act shall prevail in the matter of filing an appeal and an appeal would not lie under the provisions of Section 96 CPC. Lok Adalat is conducted under an independent enactment and once the award is made by a Lok Adalat the right of appeal shall be governed by the provisions of the Legal Services Authorities Act. When it has been specifically barred under provisions of Section 21(2), no appeal can be filed against the award under Section 96 CPC. It may be seen that in the instant case compromise was reached between both the parties and dispute was referred to Lok Adalat by agreement of both the parties. Both parties had also agreed to pass an award and had entered appearance along with counsel. Thus in terms of the compromise, award was passed by the Lok Adalat.

The Court further stated that Lok Adalats have been conferred power of the Civil Court under the CPC in respect of matters such as summoning and enforcing the attendance of any witnesses and examining him on oath, discovery and production of any documents, reception of evidence on affidavits, requisitioning of any public record or document or copy of such record or document from any Court or office and such other matters as may be prescribed. It cannot be said that by implication appeal under Section 96 CPC would lie against the award of Lok Adalat, in view of the fact that there is specific prohibition contained in Section 21(2) of the Act. The Court further said that even the Code of Civil procedure does not provide for an appeal under Section 96(3) against a consent decree. The Code of Civil Procedure also intends that once a consent decree is passed by Civil Court finality is attached to it.
Such finality cannot be permitted to be destroyed, particularly under the Legal Services Authorities Act, as it would amount to defeat the very aim and object of the Act. We are of the view that the provisions of Section 96 CPC are not applicable to file an appeal against the award of Lok Adalat.\textsuperscript{72}

In \textit{Board of Trustees of Port of Visakhapatnam v. Presiding Officer Permanent Lok Adalat-Cum-Secretary, Distt. Legal Services Authority, Visakhapatnam},\textsuperscript{73} The Court directed that the award of Lok Adalat can not be challenged by appeal or even by writ jurisdiction under Article 226 and observed that the award is enforceable as a decree and it is final and binding. In all fours, the endeavour is only to see that the disputes are narrowed down and make the final settlement so that the parties are not again driven to further litigation or any dispute. Though the award of a Lok Adalat is not a result of a contest on merits just as a regular suit by a Court on a regular trial, however, it is as equal and on par with a decree on compromise and will have the same binding effect and conclusive. Just as the decree passed on compromise cannot be challenged in a regular appeal, the award of Lok Adalat being akin to the same, cannot be challenged by any regular remedies available under law including invoking Article 226 of the Constitution of India challenging the correctness of the award on any ground. So, the award of Lok Adalat is final and permanent which is equivalent to a decree executable and the same is an ending to the litigation among parties.

The award of the Lok Adalat is an order by the Lok Adalat under the consent of the parties, and it shall be deemed to be a decree of the Civil Court. Therefore, there is no need either to reconsider or review the matter again and again, as the award

\textsuperscript{72} \textit{Ibid.}
\textsuperscript{73} (2000) 5 ALT 577.
passed by the Lok Adalat shall be final. Thus, an appeal shall not lie from the award of the Lok Adalat as under Section 96(3) CPC which says that “no appeal shall lie from a decree passed by the Court with the consent of the parties”.74

If a matter has been decided or decree has been passed by the Lok Adalat before enforcement of the Legal Services Authorities Act. Then, the bar against filing of appeal under Section 21(2) of the Legal Services Authorities Act, 1987 would not apply.75 In *Mahila Banwari Bai v. Kashmir Singh*,76 the High Court held that Section 21(2) of the Act clearly prohibits the appeal against the award of the Lok Adalat, if the award has been passed by the authorities legally. The intention of legislature in prohibiting an appeal against the award of Lok Adalat is to give finality to the award, so unnecessary further litigation could be saved, however, when the award as void an initio, the parties who entered into compromise had no power to enter into the compromise and the compromise has been entered between the so-called parties by playing fraud, hence, there was no compromise at all. The award passed by the Lok Adalat on the basis of compromise could not be said to be a settlement arrived at between the parties. In such circumstances the appeal is maintainable under Section 96 of CPC against such void award.

Therefore, it is manifest that the object of the Act is to reduce the arrears pending in the courts and to encourage the settlement of disputes by way of negotiation, conciliation and persuasion. In this backdrop, the finality clause under Section 21(2) of the Act prohibits the right of appeal. Because, once the matter has been settled by the parties on their free and mutual

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76. AIR 2009 MP 232 at 235.
consent in Lok Adalat then no party is allowed to file an appeal against such award.

2.5.2 Judicial Review

The basic objective of the Lok Adalat is to settle the disputes pending before Courts or which are not instituted in courts, by conciliation, mediation, persuasion and human approach to the problems of the disputants. The award of Lok Adalat is final and binding upon the parties. But when the award is passed by Lok Adalat in violation of statutory provision and against principle of natural justice, then it would be the miscarriage of justice. Therefore, the researcher has considered the requirement of judicial review in the present scenario of Lok Adalats.

In Joti Sharma v. Rajinder Kumar,77 the High Court of Jammu and Kashmir has viewed about the scope of judicial review against the award of Lok Adalat and Limitation upon writ jurisdiction of the courts in this content. The High Court held that Lok Adalat is a creation of Legal Services Authorities Act whereunder it comes into existence and its powers/functions and mode of functioning are all prescribed thereunder which sufficiently clothes it with all the attributes of a statutory tribunal constituted under a statute and is as such deemed to be amenable to writ jurisdiction of the High Court, wherefrom it necessarily follows that award passed by Lok Adalats are open to judicial scrutiny in exercise of writ jurisdiction, particularly for want of any other alternative remedy much less an efficacious one, so much so that even an appeal against an award of Lok Adalat is expressly prohibited. In addition to that in order to prevent the Lok Adalat from becoming susceptible to any trends of arbitrariness for want of a statutory/appeal remedy against its awards, it is necessary

77. Supra note 23, 37-38.
that the writ jurisdiction of High Court takes awards passed by Lok Adalat within its fold. The Court further held that amendability of award of Lok Adalat to exercise of writ jurisdiction may in some manner dilute the efficacy of Lok Adalat system and persuade litigants to resile from awards otherwise based on their agreements by itself, would not mitigate the position that Lok Adalat being a statutory authority is as such subject to writ jurisdiction, and not immune to fallibility. The maximum, however, that can be aspired for in that regard is that the writ Courts should exercise jurisdiction very sparingly and only in exceptional cases in order to prevent the failure of justice. arbitrariness or illegalities.

In the case of *State of Punjab v. Jalour Singh*. The Apex Court has specified that the writ petition can be filed against the award of Lok Adalat only on limited grounds. In this case, an appeal against accident claim award was filed before the High Court of Punjab and Haryana. Such case was transferred to Lok Adalat, in absence of compromise, passed award enhancing compensation and liberty given to party to approach High Court for disposal of appeal in case of disagreement. Then the appellants made the application to the High Court for disposal of pending appeal. But High Court dismissed such application on the ground that the award is binding. Then, the appellants filed a writ petition under Article 227 which was also be dismissed on the ground that award has become final as objections against it have been dismissed. Therefore, the appellants filed this appeal before the Supreme Court. The Apex Court after hearing the matter held that the award of Lok Adalat as also orders of High Courts are improper and liable to be set aside. The Supreme Court further observed that it is true

78. *Supra note 53.*
that where an award is made by Lok Adalat in terms of a settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it in any court. 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, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directed the respondent to either make payment if he agrees to the order, or approach the High Court for disposal of appeal on merits. It is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. In such a situation the High Court ought to have heard and disposed of the appeal on merits.

In *Moni Mathai v. Federal Bank Ltd., Arakkunam*, the High Court has prescribed the grounds in which the writ petition can be filed against the award of Lok Adalat and held that Section 21(2) provides that no appeal shall lie to any court against the award. So the bar is only in respect of filing an appeal. When there is patent illegality, error of law or error of jurisdiction, the High Court can interfere with the decision of inferior Tribunal. If there is violation of fundamental right or violation of any Act or Rules or violation of the principles of natural justice also the Court can interfere with the award passed by the Lok Adalat under Article 226 of the Constitution of India.

The High Court of Karanataka has observed in *The Commissioner, Karanataka State Public Instruction (Education)*,

79. *Supra note 61, 166.*
Banglore v. Nirupadi Virbhadrappan Shiva Simpi,\textsuperscript{80} that the power of judicial review is implicit under the Constitution unless expressly excluded by a provision of the Constitution. This power is available to correct any order passed by a statutory authority which is violative of any of the provisions of the statute. The Lok Adalat is a creation of statute and gets jurisdiction from it and hence the High Court is competent to go into an order passed by it, to decide whether the order in question is valid in law. The writ jurisdiction of the High Court cannot be circumscribed by provisions of any enactment as is to be found in Section 21 of the Act and it can always exercise its jurisdiction if an order, left alone, would amount to abrogating the Rule of Law. Because, if any affected party by the decision of Lok Adalat, is prevented from defending its cause, under the guise of finality clause, it would lead to public injury and denial of fair trial to such party. It is essential that in the interest of justice such public injury must be prevented, where necessary by interference under Article 226. The question whether the High Court would have jurisdiction to issue writs under Article 226 even in matters where the statute specifically excludes the jurisdiction of ‘Court’. The High Court of Karnataka has discussed this question in light of judgment of the Supreme Court in case of Union of India v. Narasimhalu.\textsuperscript{81} In which the Apex Court observed on this question that the exclusion of the jurisdiction of the Civil Court to entertain a suit does not exclude the jurisdiction of the High Court to issue high prerogative writs against illegal exercise of authority by administrative or quasi-judicial tribunals. The finality which may be declared by the statute qua certain liability either by express exclusion of the jurisdiction of civil court or by clear

\textsuperscript{80} AIR 2001 Kant 504.
\textsuperscript{81} (1970) 2 SCR 145.
implication does not affect the jurisdiction of the High Court to issue high prerogative writs. Thus, the order having been passed by the Lok Adalat in violation of the fundamental principles of judicial procedure and in addition, the order passed being not within the competence of the Lok Adalat, craves for the interference of the High Court under Article 226 of the Constitution.

In *Dinesh Kumar v. Balbir Singh*, the objection had been raised with regard to the maintainability and adjudication of the writ petition by the High Court against the award of Lok Adalat or Permanent Lok Adalat in the view of Section 21 as well as Section 22E of the Legal Services Authorities Act, 1987. The High Court answered this objection in the light of decisions of the Supreme Court in cases of *Kihoto Hollohan v. Zachillhu* and *L. Chandra Kumar v. Union of India*. In the former case, the S.C. held that the finality clause does not completely exclude the jurisdiction of the Courts under Articles 136, 226 and 227 of the Constitution. But it does have the effect of limiting the scope of the jurisdiction. The principle that is applied by the courts (High Courts and Supreme Court) is that inspite of a finality clause it is open to the court to examine whether the action of the authority under challenge is ultra vires the power conferred on the said authority. Such an action can be ultra vires for the reason that it is in contravention of a mandatory provision of the law conferring on the authority the power to take such an action. It will also be ultra vires the powers conferred on the authority if it is vitiated by malafides or is colourable exercise of power based on extraneous and irrelevant considerations. While exercising their certiorari

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82. AIR 2008 HP 59.
83. AIR 1993 SC 412.
84. AIR 1997 SC 1125.
jurisdiction the courts have applied the test whether the impugned action falls within the jurisdiction of the authority taking the action or it falls outside such jurisdiction. An ouster clause confines judicial review in respect of actions falling outside the jurisdiction of the authority taking such action. In later case, the S.C. decided that power of judicial review is a basic and essential feature of the Constitution and the jurisdiction conferred on the High Court under Articles 226 and 227 and on the Supreme Court under Article 32 is a part of basic structure of the Constitution. Therefore, the High Court convened with the reasons of these cases and decided that despite expression used in sub-Sec.(2) of Section 21 of the Act that no appeal shall lie to any court against the award and the expression used like original suit, application or execution proceeding as mentioned in sub-Section (4) of Section 22E will not include the writ jurisdiction. This court has the jurisdiction to go into the legality of the orders passed by the Lok Adalat as well as Permanent Lok Adalat if they are against the letter and spirit of the Act and the same are without jurisdiction.

The High Court of Allahabad recently discussed in detail the scope of judicial review of the award of Lok Adalat in the case of Shashi Prateek v. Charan Singh Verma,\textsuperscript{85} and held that although the provisions of the Act are intended to make award of Lok Adalat arrived at on the basis of compromise or settlement between parties to dispute as final and remedies of appeal, review and revision against the award of Lok Adalat are not available under law but being a tribunal of special nature, the remedy to recall the order/award passed by Lok Adalat on the ground of fraud or misrepresentation or mistake of fact can not be held to be barred under law, as power to recall its order on the aforesaid grounds is inherent in every court or tribunal.

\textsuperscript{85} Supra note 37, 120.
or statutory functionary. Similarly, the awards made by the Lok Adalat organized or established under the Act cannot be held to be immune from judicial review as High Court under Article 227 has ample power of superintendence over decisions of all the courts or tribunals throughout the territories in relation to which it exercises jurisdiction, therefore, orders passed or awards made by Lok Adalats organized and established under the Act within territorial limits of High Court, are subject to judicial review on grounds available under Article 226/227 of the Constitution of India, otherwise person aggrieved would be left remediless. Therefore, on the basis of these judgements, it is found that Lok Adalats come under the domain of writ jurisdiction basically when the award has been passed against statutory provisions and principles of natural justice, equity, fair play and other legal principles.

2.5.3 Execution of Award

The Act does not say regarding the manner of execution of the award of Lok Adalat. But the provisions in respect of execution of the award are laid down in the Rules made under the provisions of the Act by the State. As the award passed by the Lok Adalats in respect of pending cases shall be executable by the courts in which these matters were pending prior to the passing of the awards by the Lok Adalats. However, the petitions for execution of awards passed by the Lok Adalats regarding matters at pre-litigative stage shall be instituted before the Senior most Judicial officer out of Civil Judges at the District level and before the Senior most civil Judge at the Sub-divisional level who may execute the same himself or entrust it to any junior judicial officer and exercising pecuniary jurisdiction in respect of amount settled at the pre-litigative
stage. The award of Lok Adalat is treated as a decree passed by a civil court. If one party does not act in accordance with award then the remedy available to the respondent is similar to that of decree-holder, who obtained a decree through civil court, his remedy is executing a decree passed by a civil court.

In the case of *Thomas Job v. P.T. Thomas*, a question raised before the High Court which court can execute the award of Lok Adalat. The Court held that Section 21 provides that the award shall be deemed to be a decree of the court, the manner of execution is not stated in the said Sec.. The Court which is competent to execute the award passed by the Lok Adalat is also not stated. While Section 19 says that the Lok Adalat has jurisdiction to determine and arrive at a compromise or settlement between the parties to a dispute relating to pending case and which is in pre-litigation stage. Even in such cases, the court which is competent to execute the award is not stated. Hence, no provision of the Legal Services Authorities Act prescribes about the court to execute the award. But in this case award was passed in the appeal while the same was pending before the District Court. The appeal was from a suit which was pending before the Subordinate Court. Since the award was passed in a case pending before the Subordinate Judge’s Court then that Court can execute the award passed by the Lok Adalat. But the executing court is not empowered to vary the award of the Lok Adalat.

The same question has come again before the same High Court in the case of *Thomas Anthony v. Florance George*, The

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86. The Haryana State Legal Services Authority Rules, 1996 Rule, 28A.
88. Supra note 67, 50.
89. AIR 2007 Ker 31 at 33.
High Court of Kerala held that in case the value is indicated in the dispute raised by the parties before the Lok Adalat, there is no difficulty. If it is a matter where the Munsiff Court could have adjudicated, the award passed by the Lok Adalat shall be treated to be a decree executable before the Munsiff Court. Needless to say that if it was a matter which could have been adjudicated by the Subordinate Court going by the valuation indicated in the dispute raised before the Adalat, then the award passed by the Lok Adalat will have to be treated as a decree to be executed by the Subordinate Court. In case the parties before the Lok Adalat do not furnish any indication as to the valuation, the matter will have to be governed by the relief granted to the parties. If the amount granted in the award passed by the Lok Adalat is within the pecuniary jurisdiction of the Munsiff Court for the purpose of filing the suit, the execution shall be before the Munsiff Court and if not, before the Subordinate Court. The territorial jurisdiction is to be determined as per Section 19 (5) (ii), with reference to the Court for which the Adalat is organised. Which would have been the Court of competent jurisdiction that would have entertained the matter for trial, had the matter been not settled is though the principle, since the parties have settled the matter in the Adalat organised for a Court/Courts, the territorial jurisdiction shall also be governed accordingly.

On the basis of above said judgements, the award of Lok Adalat in pending cases can be executed by such court which has referred the cases to Lok Adalat for settlement while in pre-litigation matters, the award of Lok Adalat can be executed by such Court which having the jurisdiction to hear such matter but such matter has not been brought it.
2.5.4 Refund of Court Fee

Lok Adalat is an unique institution which dispense justice to the parties free of cost. As per Section 21(1) read with Rule 28-A, provides that in respect of cases settled through the medium of Lok Adalat, the court fee affixed at the time institution of such cases shall be refunded in manner provided under the Court Fees Act, 1870. Similarly, when a matter is referred to Lok Adalat at pre-litigation stage, then no fee is required to be deposited by party in Lok Adalat for the determination of the matter. In an important case, the Supreme Court directed to State Governments to amend their court fee legislation on the lines of amendment made in central Court Fees Act. The amendment must be made in order to refund the court fee to the parties, if their case has been settled by using any one of the modes provided in Section 89 of CPC. Because as per Section 89 only the pending cases before the civil court are referred either to (i) arbitration, or (ii) conciliation, or (iii) mediation, or (iv) Lok Adalat.

In Ambika Rajan v. Basheera Beevi, the question raised before the High Court whether court fee would be refunded if Execution Petition is settled by Lok Adalat. The Court examined this question in the light of combined reading of Sections 20(1) and 21(1), and held that the expression “where a case is referred to Lok Adalat under Sub-Section (1) of Section 20 and the expression ‘the court fee paid in such case shall be refunded’ occurring in Section 21(1) of the Act are to be read together. Refund of court fee should be in respect of the case referred to the Lok Adalat. If an Execution Petition is “the case referred” to the Lok Adalat, court fee paid on the plaint cannot

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90. Supra note 86.
92. AIR 2009 Ker 151 at 154.
be refunded, as what is referred to the Lok Adalat is not the suit. At best, refund could only be of any court fee paid in the Execution Petition, if it is otherwise permissible under law.

Therefore, the free justice is provided to disputant at their doorsteps by Lok Adalat in both kinds of matters pending as well pre-litigation matters.

3. Permanent Lok Adalat

Lok Adalat has been working as a method of alternate dispute resolution mechanism since 1982. After the enforcement of the Act, 1987, Lok Adalats are being organized by the various authorities and committees in accordance with provisions of the Act. But the major defect of the Lok Adalat system was that it did not have power to adjudicate the case or matter before it, particularly when one of the parties is not agreed for settlement, though the case or matter involves an element of settlement. This adamant attitude shown by one among the parties will render the entire process futile. Even if all the members of the Lok Adalat are of the opinion that the case is a fit for settlement, but, they are not authorized to take a decision on the merit. Second defect is that Lok Adalats are not organized daily at a particular place. It also become a reason for the failure of the efforts of the members of Lok Adalat because some legal matters can not be settled in a single day. There must be continuous and repeated conciliatory efforts for the settlement these complicated legal matters such as matrimonial, family, labour disputes and landlord-tenant controversies, etc. Due to these reasons, Dr. A.S. Anand, the Chief Justice of India (as he then was), emphasized upon the idea of establishing the Permanent and Continuous Lok Adalats in all the districts in the country. He, as an Executive chairman of National Legal Services Authority (NALSA), wrote a letter to
all the Chief Justice of the High Courts requesting them to establish Permanent Lok Adalats at all levels.\textsuperscript{93}

In the significant case of \textit{Abdul Hassan v. Delhi Vidyut Board}\textsuperscript{94}, the Delhi High Court emphasized to the idea of setting up Permanent Lok Adalat and observed that there is a serious problem of overcrowding of dockets. Seekers of justice are in millions and it is becoming rather difficult for the Courts to cope up with the ever increasing cases with the present infrastructure and manpower. There is need for decentralization of justice. Permanent and Continuous Lok Adalats should be established with the object not only to reduce the pendency in Courts but also to achieve the end of Article 39A and the object of Act, 1987. Besides, a solitary appearance of parties before a Lok Adalat which is organized for a day or two may not be adequate for arriving at a compromise or settlement. The need of the hour is frantically beckoning for setting up Lok Adalats on permanent and continuous basis. The court further directed that for facilitating expeditious disposal of all kinds of cases Permanent Lok Adalats must be set up in Delhi Vidyut Board, Municipal Corporation of Delhi, New Delhi Municipal Committee, Delhi Development Authority, Mahanagar Telephone Nigam Limited, General Insurance of India and various departments of the Government. Since the State and its instrumentalities have the largest number of cases instituted by and against them in various level of courts. There should also be one or more Permanent Lok Adalats, depending upon the magnitude of the work, for resolving the disputes between (1) the citizens and the Government of India, and (2) the Government of India and its employees.

\textsuperscript{93} S.S. Sharma, Legal Services, \textit{Public Interest Litigations and Para Legal Services}, 188(2003).
\textsuperscript{94} AIR 1999 Del 88.
In the light of above reasons, the Parliament amended the Legal Services Authorities Act, 1987 in 2002 and introduced a new chapter VIA with the caption Pre–Litigation Conciliation and Settlement. The amendment was made in order to establish Permanent Lok Adalat (for brevity ‘PLA’) for determining the matters relating to Public Utility Services.

In case of *Municipal Council Tonk v. Serve Seva Sanasthan*\(^9\), The High Court of Rajasthan highlighted the reasons and features of the amendments of the Act and said that the Lok Adalats constituted under Chapter – VI of the Act, can settle disputes only on the basis of compromise or settlement between the parties. If the parties do not arrive at a settlement or compromise 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 dispensation of justice. The framers of law, therefore, decided to amend the Act by inserting a new Chapter VI-A to set up Permanent Lok Adalats to provide compulsory pre-litigative mechanism for conciliation and settlement of case relating to “Public Utility Service”. Under the new scheme, the Permanent Lok Adalat will in the first instance try to bring about conciliation between the parties and in case the parties are not able to arrive at settlement the Permanent Lok Adalat shall proceed to dispose of the matter on merits. The special feature of the amendments to the Legal Services Authorities (Amendment) Act, 2002 are–

(i) It seeks to provide compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services.

(ii) The public utility services like transport of passengers or goods by air, road or water; postal, telegraph or telephonic service; supply of power and water to the public,

\(^9\) AIR 2004 Raj 96 at 97.
public conservancy or sanitation; hospitals and insurance have been brought within the purview of the Permanent Lok Adalats.

(iii) After an application is filed by any party before the Permanent Lok Adalat for settlement, no party shall invoke jurisdiction of any Court or Tribunal.

(iv) The Permanent Lok Adalat conducts the conciliation proceedings in such a manner as it considers appropriate taking into account the circumstances of the case, the wishes of the parties including any request for oral hearing. The Lok Adalat shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute. Where it appears to Lok Adalat that there exists an element of settlement which may be acceptable to the parties, it shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving observations from the parties, it may formulate the terms of a possible settlement in the light of such observations.

(v) In case the parties are not able to arrive at any compromise or settlement, the Lok Adalat shall proceed to dispose of the case on merits if it does not relate to a non-compoundable offence. The Lok Adalat while determining the case on merits shall be guided by the principles of natural justice objectively, fair play, equity and other principles.

(vi) The Lok Adalat shall have the requisite powers to specify its own procedure for determination of any dispute coming before it.

(vii) Award made by Permanent Lok Adalats shall be final, binding and shall not be questioned in any original suit, application, or adjudication proceedings.

(viii) The award shall be deemed to be a decree of Civil Court.
(ix) Monetary jurisdiction of Permanent Lok Adalats fixed at Rs. 10 lakhs with power conferred on the Government to revise it from time to time.

(x) Permanent Lok Adalat will comprise a chairperson with judicial experience and two other persons having adequate experience in public utility services.

The importance of the amendment lies in promoting welfare of the society by enabling the people to approach Lok Adalats. The amendment attempts to remove the helplessness of a consumer which he faces in the field of public utility services. The might of public bodies which are degenerating into store house of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for extraneous consideration leaving the common man helpless, bewildered and shocked. The malady is becoming so rampant, widespread and deep that the society instead of bothering complaining and fighting for it, accepting it as part of life. The amendment in these harsh realities appears to be a silver lining which may in course of times succeed in checking the rot\(^\text{96}\).

The Chapter VI-A contains the Sections from 22A to 22E. Section 22A deals with the definitions. Section 22B provides for the establishment of Permanent Lok Adalats (for brevity ‘PLA’). Section 22C says about the mechanism for PLA to take cognizance of cases and conciliation process adopted it. Procedure followed by PLA has been provided under Section 22D and award of PLA is to be treated final under Section 22E. So, the Chapter VIA only deals with the provisions related to conduct of PLA.

\(^{96}\) \textit{Ibid.}
3.1 Constitution of Permanent Lok Adalat

As per Section 22A(a), Permanent Lok Adalat means a Permanent Lok Adalat established under Sub-Section (1) of Section 22B. The provision does not define the meaning of PLA but only says that: the Central Authority or, every State Authority is authorized to establish PLA at such places and for exercising such jurisdiction in respect of one or more public utility services and for such specified areas. It shall have three members; the chairman, who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge and two other persons having adequate experience in public utility service. Such persons shall be appointed by the Central Authority or the State Authority, as the case may be, upon nomination by the respective Governments on the recommendations of the concerned authorities.97

3.2 Jurisdiction of Permanent Lok Adalat

The Permanent Lok Adalat has jurisdiction to determine the disputes relating to Public Utility Services,98 compoundable offences and the disputes in which value of property does not exceed Rs. 10 Lakhs. For the determination of a dispute any party to a dispute may make an application to the Permanent Lok Adalat for settlement of dispute only at pre-litigation stage. When such an application is made to Permanent Lok Adalat by

97. Supra note 8, Sec. 22B.
98. Id. Sec.22A(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 supply of power, light or water to the public by any establishment; or system of public conservancy of 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 for the purposes of this Chapter.
one party, the other party to dispute is not allowed to invoke the jurisdiction of any court in the same dispute.\textsuperscript{99} It means when an application is made by either party to the Permanent Lok Adalat to settle a dispute at the pre-litigation stage, the PLA shall do so, and, the other party is precluded from approaching the civil court in such a case.\textsuperscript{100} It is evident that no case related to such matter can be instituted in a civil court.

As per Section 22B, any party to a dispute related to public utility service, it may be a public utility service provider or public utility service recipient can file an application before PLA for the settlement of the dispute. Jurisdiction of PLA is confined only to Public Utility services and so it can not dispose of the matrimonial dispute being not a public utility service.\textsuperscript{101}

In the case of \textit{Dinesh Kumar v. Balbir Singh}\textsuperscript{102}, the High Court held that the Permanent Lok Adalat can only take cognizance of the matter if it is not pending before any other court. But in the present case, the matter was pending before the Motor Accident Claims Tribunal and the same could only be referred to the Lok Adalat and the same could not be referred to Permanent Lok

\textsuperscript{99} \textit{Id.}, Sec. 22C(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.

\textsuperscript{100} United India Insurance Co. Ltd. v. Ajay Sinha, AIR 2008 SC 2398 at 2405.

\textsuperscript{101} Rita Kumari v. Shyam Sunder, AIR 2007 DOC 259 Cal.

\textsuperscript{102} Supra note 82.
Adalat. Thus, the order passed by Permanent Lok Adalat is without jurisdiction and liable to be set aside.

In New India Assurance Company Ltd. v. Sabharathanam,\textsuperscript{103} it has been decided that a dispute which comes into existence from a claim petition filed by the injured in a motor accident is not a dispute touching upon "insurance service" under Section 22A(b) for the purpose of Chapter VI-A of the Legal Services Authorities Act. A Permanent Lok Adalat would be bereft of jurisdiction to decide a claim petition filed by a claimant arising out of a motor accident. Such claims can only be decided by the Tribunals constituted under the Motor Vehicles Act.

An important case regarding the scope of Public Utility Services is the, Municipal Council, Tonk v. Serv Seva Sansthan.\textsuperscript{104} In this case, the petitioners sought to quash the award of Permanent Lok Adalat Tonk made under Section 22C(8) of the Act, whereby the Municipal Council, Tonk was directed to discontinue the operation of slaughter house situated near Jaipur-Kota highway. The Permanent Lok Adalat had decided the matter because the environment of Distt. Tonk got polluted by the activities of slaughter house and it was related to the problem of public conservancy and sanitation which come in the purview of Public Utility Services. But the petitioners contended that the impugned order of Permanent Lok Adalat was beyond its jurisdiction. The High Court of Rajasthan decided this matter in the context of jurisdiction and importance of Permanent Lok Adalat. The Court held that we do not find any merit in the points of the petitioners that the Permanent Lok Adalat exceeded its jurisdiction while making impugned award. The dispute neither related to money nor to

\textsuperscript{103} AIR 2009 Ker 71.

\textsuperscript{104} AIR 2004 Raj 96.
property so as to limit pecuniary jurisdiction within Rs. 10 Lakhs. While it related only to public conservancy and sanitation under Section 22A(b)(iv). Therefore, the Permanent Lok Adalat has jurisdiction to dispose of this kind of matter which come under the matrix of Public Utility Services.

Recently, the High Court of Kerala examined in detail the extent of Public Utility Services in the context of insurance service in the case of New India Assurance Company Ltd. v. Sabharathanam,105 and held that it would have been ideal if the legislature had defined insurance service for the purpose of ascertaining the limits of jurisdiction of the Permanent Lok Adalat in that regard. But it has not been done and therefore it would be necessary to refer to similar terms as they are defined in statutes covering the same field. The Insurance Act, 1938 does not define Life Insurance service but significantly it defines Life Insurance business, Marine Insurance business, General Insurance business and Fire Insurance business. What is therefore indicated by Life Insurance business as defined is the business of effecting contracts of insurance upon human life. It can also include any contract which assures the payment of money on death or other contingencies as well. The insurance would therefore depend upon a bilateral agreement between the insurer and the insured. Once there is a contract of insurance, the insurance company may be called upon to render insurance services. A service rendered by an insurer, as part of its activities would be called as insurance service. The term 'insurance service' as defined under Section 22A(b)(vi) of the Legal Services Authorities Act could be judged in the said context. Insurance Service is treated as a part of the Public Utility Service and therefore what is contemplated by Section 22A (b)(vi) read with Section 22B in so far as the Public Utility

105. Supra note 103, 74-75.
Service touching upon the insurance business is concerned, is a dispute arising out of the insurance business carried on by the insurance company. There are several disputes which arise between the insured and the insurer, for example dispute arising on account of deficiency in service rendered by the insurance company. Obviously such dispute could fall within the purview of Section 22A(b)(vi) read with Section 22B and would therefore be comprehended by the powers of the Permanent Lok Adalat.

The Apex Court observed in case of United India Insurance Co. Ltd. v. Ajay Sinha,\(^{106}\) that the terms “relating to an offence” appearing in proviso must be interpreted broadly. For the said purpose, the dispute under the criminal procedure and/or the nature thereof would also play an important role. Whereas respondent states that the burglary has taken place, the plaintiff denies and disputes the same. In a criminal case, the accused shall be entitled to raise a contention that no offence has taken place. If the criminal court form an opinion that an offence had taken place, which otherwise is a non-compoundable one, the term “relating to an offence” should be given wider meaning. If in a case the determination before the Permanent Lok Adalat involves the question as to whether or not an offence, which is non-compoundable in nature, has indeed been committed, such case falls outside the jurisdiction of the Permanent Lok Adalat.

Therefore, it is evident that Permanent Lok Adalat has jurisdiction to determine the matters related to public utility services, compoundable criminal offences and where the value in dispute does not exceed Rs. 10 Lakhs. However, if a party to dispute makes an application before the Permanent Lok Adalat for determination of such dispute, then the other party to

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106. AIR 2008 SC 2398.
dispute is not allowed to institute the case in any court in the
same dispute.

3.3 Procedure of Permanent Lok Adalat

The Permanent Lok Adalat after the receipt of the
application is required to direct the party to file before it a
written statement, stating therein the facts and nature of the
dispute under the application and the 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. The applicant can
supplement such statement with any document and other
evidence. The other parties are required to be permitted to file
reply to the statement of claim preferred by the applicant. The
copies of documents produced and statements made by the
parties shall be provided to each other with the object to
prepare himself. Thereafter, the Permanent Lok Adalat has to
conduct conciliation proceedings between the parties and it is
the duty cast upon the other party to the application to co-
operate in good faith with the Permanent Lok Adalat in
conciliation of the dispute relating to the application. The
Permanent Lok Adalat if it is of the opinion that there exists
element of settlement 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 dispute, they shall sign the
settlement agreement and the Permanent Lok Adalat shall pass
an award in terms thereof. If during the course of proceedings
before the Permanent Lok Adalat, the parties fail to reach an
agreement, the dispute is to be adjudicated upon by the
Permanent Lok Adalat, if the dispute does not relate to any
offence.\footnote{107}

\footnote{107. Supra note 8, Sec. 22C.}
The Permanent Lok Adalat, in terms of Section 22D, while conducting conciliation proceedings or deciding a dispute on merit shall not be bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872, but guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice.

In the High Court of Himachal Pradesh in the case of Dinesh Kumar v. Balbir Singh, has directed to Permanent Lok Adalat strictly to follow the principles of natural justice, equity and other legal principles while performing its functions. In this case, the petitioner got grievous injuries by an accident with a bus. He filed a petition before the Motor Accident Claims Tribunal claiming the compensation for Rs. 3 lakh for the injuries received in the accident. The case was referred to Permanent Lok Adalat for settlement. The matter had been compromised between the divisional manager of the New India Insurance Company and the advocate of petitioner for the amount of Rs. 10,000 as compensation. On this issue, the High Court held that as per Section 22D the PLA while conducting conciliation proceedings or deciding a dispute, must follow the principles of natural justice, objectivity, fair play, equity and other principles of justice. The Permanent Lok Adalat was required to see whether the compromise or settlement being arrived at was equitable and just. The very concept of organizing constitutional Lok Adalats will be frustrated if the compromise settlement are arrived at causing immense hardships to the claimants. The idea of constitution of Lok Adalats is to give speedy justice and mitigate the hardships of the victims. The very important aspect which has been overlooked by the Permanent Lok Adalat while striving for the compromise was that the victim was a driver who has received

108. Supra note 82.
grievous injury resulting in fracture of right tibia. Though the claimant had suffered 15% disability, but the same has to be taken into consideration vis-à-vis his profession i.e. driving. A clerk or other professional where physical work is not required may discharge his duties efficiently even though his disability is around 15% but a driver who has suffered a fracture of right tibia, it will be difficult for him to drive a vehicle. The claimant had remained indoor patient and had incurred expenses of Rs. 80,000/- for treatment. He was out of employment for the days he was convalescing. These aspects have also been overlooked by the Permanent Lok Adalat. In this case, it was contended that the compromise was effected on the basis of statement made by the Advocate of the claimant. But, the High Court held on this issue that the Advocate had no jurisdiction to make concession on question of law. The concession given on question of law, more particularly, when the jurisdiction of Permanent Lok Adalat was involved will not be binding upon the claimant.

In *L.I.C. of India v. District Permanent Lok Adalat*,109 it has been decided by the High Court that if a settlement does not take place between the parties, the Permanent Lok Adalat will have to decide the matter on merits. It is no doubt true that a procedure has been laid down for deciding the dispute in a Permanent Lok Adalat also but the same ultimately is a summary procedure which by and large may be followed but its technicality cannot be resorted to such as extent that the ultimate object of speedy justice itself is sacrificed. The contention of the appellants counsel that it should have been allowed to linger on at least for some time by adjourning the matter on several dates and by granting adequate opportunity to the parties to file counter and rejoinder in the proceedings

cannot be accepted as a sound and reasonable argument which obviously would be against the intention of the legislature for which this legislation was enacted. In the case at hand, if the contesting parties were granted sufficient opportunity to address the court of their respective plea and a reasoned order thereafter has also been passed by the Permanent Lok Adalat while deciding the dispute, then the contention that the procedure laid down under the Act has not been followed, is a totally unacceptable argument being devoid of merit.

Therefore, it is obvious that, PLA can exercise both kinds of methods conciliatory as well as adjudicatory for the purpose of determination of the dispute. A detailed procedure has been prescribed in the Section 22C which shall be followed by PLA while performing its functions. However, it is bound to follow strict procedural laws such as Civil Procedure Code and the Evidence Act. But, it is required that PLA shall be guided by principles of natural justice, objectivity, fair play, equity and other legal principles.

3.4 Adjudicatory Power of Permanent Lok Adalat

Chapter VI-A stands independently whose heading talks of Pre-Litigation Conciliation and Settlement keeping in view the Parliamentary intent, which emphasise about the settlement of all disputes through Negotiation, Conciliation, Mediation, Lok Adalat and Judicial Settlement are required to be encouraged. But Section 22C (8) of the Act speaks of determination by the PLA which has power to decide a dispute. The term decide means to determine; to form a definite opinion; to render judgement. On the plain reading of Section 22C, it is undisputed that the main and basic function of the Permanent Lok Adalat is to settle dispute at the pre-litigation stage and to arrive at an agreement or settlement. However where the parties fail to arrive at a settlement, PLA is not rendered helpless but is given the power to proceed to adjudicate the dispute as such,
subject to the condition that the dispute is not related to any offence.\textsuperscript{110} But the condition is that Section 22C(8) can be exercised or invoked only as a last resort.\textsuperscript{111}

It is revealed that a distinguishing feature in so far as the powers of Permanent Lok Adalat is concerned, is its adjudication power. So, it is competent to decide contentious issues as well. The aforesaid statutory power conferred upon Permanent Lok Adalat can be termed as a residuary power even though it is mandatory in nature due to word ‘shall’ but the same cannot be exercised directly and/or in violation of statutory provisions.

Recently the High Court of Jharkhand has specified the way in which the powers must be exercised by PLA. The court has directed in case of \textit{National Insurance Co. v. Kartik Gorain},\textsuperscript{112} that it is a duty vested in Permanent Lok Adalat that by using their wisdom, knowledge and experience, terms of settlement ought to have been offered by the Permanent Lok Adalat on its own to the parties to the dispute. Therefore, some time ought to be granted to the parties. If they are offering their terms of settlement, it can be accepted by the Permanent Lok Adalat and if they are accepting the terms of settlement, offered by Permanent Lok Adalat, then only, an award can be passed. But directly, the Permanent Lok Adalat cannot take a decision on merits. There must be a written consent by the parties to the dispute, given to the Permanent Lok Adalat for deciding the disputes on merits. Unless there is such a written consent by the parties, given to the Permanent Lok Adalat, it shall have no power to decide the issues on merits.

The Apex Court has discussed the extent of using of power by PLA under Section 22C(8) and observed in case of \textit{United New India Assurance Co. Ltd. v. Sabharathanem}, AIR 2009 Ker 71 at 74.\textsuperscript{110} \linebreak \textit{National Insurance Co. Ltd. v. Sanjori Devi}, AIR 2009 Jhar 157.\textsuperscript{111} \linebreak AIR 2010 Jhar 59 at 60.\textsuperscript{112}
Indian Insurance Co. Ltd. v. Ajay Sinha,\textsuperscript{113} that it is important to note that with respect of public utility services, the main purpose behind Section 22C(8) seems to be that “most of the petty cases which ought not to go in the regular courts would be settled in the pre-litigation stage itself”. The court further held that with regard to Section 22C(8) of the Act the Permanent Lok Adalat must at the outset formulate the questions and it must exercise its power with due care and caution. It must not give an impression to any of the disputants that it from the very beginning has an adjudicatory role to play in relation to its jurisdiction without going into the statutory provisions and restrictions imposed thereunder.

Therefore, under Section 22C of the Act, the PLA is empowered to settle as well as to adjudicate the matter before it but this provision deserves a closure scrutiny and the level of scrutiny must also high.\textsuperscript{114} While determining the dispute, the PLA must not act as an adjudicatory body from the beginning of its proceeding. It can decide the dispute only if the parties fail to reach at an agreement.

3.5 Award of Permanent Lok Adalat

Section 22E\textsuperscript{115} of the Act makes an award of Permanent Lok Adalat to be final and binding on all the parties, which would be deemed to be a decree of a civil court. No such award

\textsuperscript{113} Supra note 106.
\textsuperscript{115} Sec. 22E reads as : (1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement 'shall be final and binding on all the parties thereto and on persons claiming under them.

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil Court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.
can be called in question in any original suit, application or execution proceeding. PLA has power to transfer any award to a Civil Court having jurisdiction and such Civil Court is mandated to execute the order as if it were the decree by the Court. An award passed by Permanent Lok Adalat either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them. The award is deemed to be a decree of a Civil Court and therefore, it can be executed in that behalf.

In the case of *Ram Niwas v. D.D.A.*,¹¹⁶ a matter had been decided by the Permanent Lok Adalat against the DDA. But the DDA did not act on the findings rendered by the Permanent Lok Adalat while that was set up exclusively for dealing with the disputes involving DDA. The authority of DDA pointed out that Lok Adalat’s recommendations were only advisory in nature. Therefore, a question raised before the High Court of Delhi whether the DDA was bound by the decision of the Permanent Lok Adalat or not. The High Court answered the question in light of the status of Permanent Lok Adalat and said that the Permanent Lok Adalat is a statutory body. The purpose of setting up such a body would be rendered nugatory if its decisions are sought to be undermined by the unreasonable stand of the DDA. The object of introducing the Chapter VI A, in the LSA Act would be defeated if DDA does not accept the decision of its own Permanent Lok Adalat particularly where it is upon an investigation of facts and after hearing the representative of the DDA.

4. **Powers of Lok Adalat and Permanent Lok Adalat**

The Lok Adalats and Permanent Lok Adalats are constituted with the purpose to settle the disputes by conciliatory methods. Whereas the PLA is also authorized to

¹¹⁶  AIR 2007 Del 115 at 117-118.
decide the matter on the basis of facts, circumstances and evidences of the case. For the purposes of holding any determination under this Act, Lok Adalat or Permanent Lok Adalat has the same powers as are vested in a civil court while trying a suit in respect of these matters, namely, the summoning and enforcing the attendance of any witness and examining him on oath; the discovery and production of any document; the reception of evidence on affidavits; the requisitioning of any public record or document or its copy from any court or office; and such other matters as may be prescribed. Apart from these powers, every Lok Adalat or Permanent Lok Adalat has the requisite powers to specify its own procedure for the determination of any dispute coming before it. All proceedings before a Lok Adalat or Permanent Lok Adalat shall be deemed to be judicial proceedings. Under the Sections 193, 219 and 228 of IPC and every Lok Adalat or Permanent Lok Adalat shall be deemed to be a civil court for the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.117

In A. Ahmed Pasha v. C.Gulnaz. Jubeen,118 the Court observed that the consideration of the structural and functional character of a Lok Adalat as a whole, in the light of various provisions of Sections 19 to 22 there cannot be any doubt to hold that a Lok Adalat under the Act is a Court within the meaning of this term i.e. Court as defined by Section 2(aaa). By this defining clause, “court” is defined as meaning “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”. A Fortiori, the proceedings held by the Lok Adalat at its sitting

117. Supra note 8, Sec. 22.
118. Supra note 34.
in determining and deciding a dispute on a reference of it, having been made either under Section 21 or under Section 22 as the case may, are undoubtedly “the legal proceedings”.

In *Public Prosecutor, High Court of A.P., Hyderabad v. Basireddy Verma Reddy*,119 the question raised before the High Court whether the Lok Adalat can be equated to court under Section 320(2) of CrPC. The High Court answered this question in the light of various provisions of the Legal Services Authorities Act and the statement of objects and reasons of the said Act. From the plain language of Section 22 of the Act which deals with the powers of Lok Adalat or Permanent Lok Adalat, it is clear that Lok Adalats have a limited jurisdiction and can act as a court only in the circumstances mentioned under Section 22. It does not indicate either explicitly or impliedly that Lok Adalat has all the trappings of a court. The court said that the objects of the enactment are chiefly two viz. firstly to have the disputes settled by way of resorting to ADR mechanism such as conciliatory, mediation, etc., in a Lok Adalat and secondly, to see that amity and peace prevails among the people, and that apart, to dissuade the parties from approaching the court of law, which costs the time and money not only of the court but also of the litigating parties. Lok Adalats are constituted and organized under the LSA Act, are not bound by CPC and the Evidence Law. The Lok Adalats have power to decide pre-litigation cases also. Similarly, Section 89 of CPC also deals with settlement of disputes outside the court through arbitration, conciliation, mediation and Lok Adalat. From the above, the court can refer the case to ADR but not settle itself. In a regular court, the matters are adjudicated after taking into consideration the stands taken by the parties, the evidence on record and also the merits, whereas the Lok Adalat can only

119. 2009 CriLJ 840 (AP).
settle the matter but not decide on merit. The other difference is that Lok Adalat has jurisdiction to settle both kind of matters civil as well as criminal except non-compoundable offences. Therefore, from the above, civil matters and criminal matters which are mentioned specifically under Section 320 of CrPC can be referred to Lok Adalat for settlement. So, the High Court held that Lok Adalat is not a court as under Section 320(2) which deals with powers of the court in according permission for compounding the offence by the persons mentioned in column no. 3 of the table appended thereto and for all the offences covered by IPC except those expressly mentioned in the table appended to Section 320 of CrPC.

5. Conclusion

The necessity and utility of Institution Lok Adalat has been unquestionable because it dispense speedy and cheap justice to the people and reduce the work load of the regular courts. On the basis of various provisions of the Legal Services Authorities Act, 1987 and the judicial pronouncements made by Apex Court and various High Courts, it is evident that the Lok Adalat system has been established with the object to promote justice on the basis of equal opportunity. In Lok Adalat mechanism there are two kinds of Lok Adalats namely Lok Adalat and Permanent Lok Adalat.

The Lok Adalats are organized by various legal services authorities and committees for settling the various matters at different places as per the schedule. A Lok Adalat has jurisdiction to arrive at a compromise between the parties with regard to any matter which may be pending before any court as well as matter which has not yet been formally instituted in any court or tribunal. Such matters may be civil, criminal or revenue in nature, but any matter relating to an offence not compoundable under any law cannot be decided by the Lok
Adalat even if the parties involved therein agree to settle such matter. Thus, in a given area, different and separate Lok Adalats can be constituted for dealing with specified types of matters. The cases of matters are referred to Lok Adalat by the Court or by the concerned authority or committee which is organizing the Lok Adalat. The Court refers the pending cases in three ways either (i) on the consent of both the parties, or (ii) at request of one of the parties, or (iii) by court itself. However, it has been discussed above on the basis of judicial decision, that while referring the case or matter the court as well as the authority or committee is bound to follow the prescribed condition under the sub-sections (1) and (2) of Section 20.

A Permanent Lok Adalat can be organized for the settlement of disputes at pre-litigation stage, related to public utility services, compoundable criminal offences and the matters where the value of property in dispute does not exceed ten lakh rupees. A dispute may be referred to the Permanent Lok Adalat on the application of any party to dispute and after such application, no party to that application can invoke jurisdiction of any court or a tribunal in the same dispute. It means that such dispute can only, be determined by the PLA.

The procedure followed at a Lok Adalat is very simple and shorn of almost all legal formalism and rituals. Every Lok Adalat or Permanent Lok Adalat is free to formulate its own procedure for the purpose of conducting conciliation. Lok Adalats attempt to resolve the dispute by helping the parties to arrive at an amicable settlement and if the parties fail to settle the dispute, then the case is either returned to courts of law or the parties are advised to seek remedy in a court of law. It means if no compromise or settlement is or can be arrived at, no order can be passed by the Lok Adalat because it has no adjudicatory power to decide the cases. While, if disputes are
not settled by Permanent Lok Adalat by the way of conciliation, then the disputes can be decided on the basis of merit. Because, it has been revealed that PLA under Section 22C(8) can exercise its decision making power for the determination of the dispute. But, when the Permanent Lok Adalat disposes of the case on the failure of conciliation proceeding, a sufficient opportunity must be granted to the parties so that they may address the Adalat on their respective plea. As it has been directed by the Supreme Court and various High Courts that such power must be used with due care and caution and invoked only as a last resort. The Lok Adalats or Permanent Lok Adalats shall be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice without being bound by the *Code of Civil Procedure* and the *Indian Evidence Act*. The expression ‘the other legal principles’ also include the judgement of the Apex Court as well as High Courts in regard to any case or matter referred to Lok Adalat for settlement. As per the directions of the Court, they are also obliged to follow the statutory provisions, rules and regulations made under the Act, 1987. It has been conferred with all the indicia of a court since it shall be deemed to be a civil court. So, it enjoys the same powers as that of a civil court in summoning and enforcing the attendance of any witness; examining him on oath; reception of evidence on affidavits; requisition of any public record or document.

Every award of Lok Adalat or Permanent Lok Adalat shall be final and binding on all the parties to the dispute and shall be deemed to be the decree of civil court. The award of Lok Adalat is an order by the Lok Adalat with the consent of the parties, instead of the process of arguments in court, therefore, there is no need either to reconsider or review the matter again and again, and no appeal can be filed against the award. But
such award of Lok Adalat and/or PLA come under the writ jurisdictions of the High Court and the Supreme Court only when the award has been passed against the statutory provisions and principle of natural justice. It is necessary to provide this opportunity to aggrieved party against the miscarriage of justice by Lok Adalat or Permanent Lok Adalat.

Therefore, the Lok Adalat system due its functioning has been famoused for delivering informal, cheap and expeditious justice to the common man. So, it is necessary to further the scope of the system by establishing separate Lok Adalats for the government departments and public sector undertakings and by bringing more matters under the jurisdiction of Lok Adalat like intellectual property rights, environment, matters relating to education system, money laundering, cyber crime, taxation, banking services, services by professionals and business matters, etc. Similarly, Lok Adalat should be empowered to decide the cases on the basis of merit as the PLA can decide. It is submitted that these suggestions may improve the structure, working, procedure and result of the functioning of the Lok Adalat system in the present scenario.
लोक अदालत में निपटे 16 केस

ग्रामीणों को लोक अदालतों से मिलता श्रोता व सरसा न्याय: देवेंद्र सिंह

गुरुवार-सोमवार, 13 जून (सोमवार) : हरिहर राम्मल, सांसद विभाग के अधिकारी हरियाणा सर्वोच्च न्यायालय के न्यायाधीश राम्मल को गवर्मेंट में ग्रामीण लोक अदालत एवं कॉमन बोर्डर्स न्यायिका की अदालत का अध्यक्ष किया गया। इस प्रावधान के संचालन में नौ गांव के विभिन्न अंतर्गत में अदालतों के साथ-साथ ग्रामीण लोक अदालतों के साथ विभिन्न गांव के विभिन्न गांव से नेताओं को सहभागी किया गया। लोक अदालतों में मुख्य 4 गांव रहे थे, 12 मासमें 25 मामलाएं रखी गईं, 16 मामलों के निश्चय पर दी गईं थीं। इनमें 4 मामलों के 4 निश्चय हुए।

लोक अदालत में आए 70 मामले

लोक अदालत में युवाधिकृत ग्रामीण व सरस्यार चुनितों अधिकारी।

22 cases decided at lok adalat

Our Correspondent

Karnal, July 8

A rural lok adalat-cum-literacy camp was held at Pesawat village of Gahla subdivision recently.

Out of 34 cases taken up, as many as 22 were decided. SJM Lawyers' Sings addressed the litigants and informed them about the purpose of setting up lok adalats to facilitate quick disposal of cases.

He said gramin lok adalats were being held to provide expeditious justice to litigants so that they could save their precious time and money. He called upon litigants to avail the facility of lok adalats to settle their pending cases. He threw light on various aspects of free legal aid to specific categories of persons. A number of advocates also assisted the court in the settlement of cases.