CHAPTER VI
IMPACT AND POWERS OF LOK ADALAT IN INDIA

According to P.N. Bhagwati C.J., the main characteristics of Lok Adalat such as deciding cases on the basis of agreement between the parties, no legal counsels allowed, and covering mainly the areas of marriage, family and social, disputes and disputes relating to rent, eviction, challans of vehicles and insurance, etc.

In the famous case of P.T. Thomas Vs. Thomas Job,¹ the Supreme Court held that, the object behind Lok Adalat is to provide alternative dispute resolution or devise for expeditious and inexpensive justice.

Some are of the opinion that Lok Adalats needs to be contextualized within the larger framework of India's legal system. The Lok Adalat was created to restore access to remedies and protections and to alleviate the institutional burden of millions of petty cases clogging the regular courts. Recall that there are many obstacles within the regular courts - particularly the lower courts - preventing disputants from receiving speedy, accessible justice. The most important aspect of the Lok Adalat is that it offers the aggrieved claimant whose case would otherwise sit in the regular courts for decades, at least some compensation now. We have to remember, these proponents argue, that in the big picture the cases that come before the Lok Adalats are rather petty. While to the individual claimant her case has enormous personal significance, in most cases the claims are usually for small amounts of money and involve relatively minor issues.

Even assuming that Lok Adalats throughout India operate as they do in the sites we observed - where cases are reviewed quickly and judges tend to act in a unilateral (if not harsh) manner - this is acceptable. The presiding judge of a Lok Adalat is an experienced adjudicator with a documented record of public service and has legal acumen. So even if the judge happens to address claimants gruffly or to treat the issues before him in a seemingly hurried manner, at the end of the day his

¹ AIR 2005 SC 3575 (2005) 6 SCC 478
decisions are usually on the mark - or at least they are close enough, so that the parties are better off than they were originally.

Regardless of how gruff and perfunctory the justice dispensed, Lok Adalats improve the overall legal system. To ignore their contributions is to misunderstand both how justice functions in India and the constraints on the path to greater access, to justice in the future.

It is noteworthy that many in India share a desperate desire to improve the condition of the legal system. But we question our critics' un-abashed acceptance that Lok Adalats even with their flaws - are better for the entire legal system than nothing at all. Lok Adalats consume scarce resources of money, personnel, attention, and energy. These resources might be better employed to address the fundamental problems facing the courts in India. To persist on the Lok Adalat track without critical examination of its costs and alternative's strikes us as manifesting all unwarranted pessimism about the possibilities for court reform that truly enhances access to justice.

It is anticipated that there will be further extensions and enlargements of the Lok Adalat duster and perhaps refinements and cutbacks as well. Within the past year there have been additional statutory initiatives to bolster the Lok Adalat. In 2002 Parliament enacted a new set of amendments to the Indian Civil Procedure Code. Among them, Section 89 enlarges the power of courts to refer cases to Lok Adalats. Section 89 reads:—

(1) Where it appears to the court that there exist elements of a settlement which may be acceptable to the parties, the court shall formulate the terms of the settlement and give them to the parties for their observations and after receiving the observations of the parties, the court may reformulate the terms of a possible settlement and refer the same for:

(a) Arbitration;
(b) Conciliation;
(c) Judicial settlement including settlement through Lok Adalat; or
(d) Mediation.

(2) Where a dispute has been referred -
(a) For arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act;

(b) to Lok Adalat, the court shall refer the same to the Lok Adalat in accordance with the provisions of sub-section (1) Of Section 20 of the Legal Services Authority Act, 1987 and all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat;

(c) For judicial settlement, the court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authority Act, 1987 [39 of 1987] shall apply as if the dispute were referred to a Lok Adalat under the provisions of that Act;

(d) For mediation, the court shall affect a compromise between the parties and shall follow such procedure as may be prescribed. Less than one plausible reading of Section 89 a court now has the power to steer cases into Lok Adalats, accompanied by the judge's formulation of a resolution, whenever the judge’s believes that a settlement between the disputing parties is possible, even if the parties do not share this opinion or consent to the transfer. Presumably if, a settlement were not arranged in the Lok Adalat, the case would return to the docket of the court. But this understanding is rendered problematic by another new provision, this an amendment to the Legal Services Authority Act (LSAA) added by Parliament in 2002.2 Section 22D of the LSAA states:

The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under the Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872.3

At least some Lok Adalats are thus authorized to go beyond arranging settlements to "decide a dispute on merit," and they are given broad discretion to do

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3 Ibid.
this according to their general notions of justice.\(^4\) Even without this extension of the mandate as mediators, Lok Adalat judges already possess power that seems overbearing and coercive to the parties before them especially poor and un-represented parties.\(^5\) The Indian Bar Council has been very critical of 22D particularly for allowing Lok Adalats to rule now on the merits of cases without the agreement of the parties. Further, many Indian lawyers worry that a claimant seeking justice in the regular state courts might end up having her case transferred without her consent to a Lok Adalat (via section 89 of the Code of Civil Procedure). And once in the Lok Aalat, the claimant may then have a judgement “on merit” issued against her, which under section 22E of the Legal Services Authority Act would be "final and binding"\(^6\) with no appeal.

In December 2002, lawyers across much of India went on strike to protest these amendments.\(^7\) In addition, the protestors filed a writ petition in the Supreme Court seeking to invalidate section 22D in a short but confusing judgement the Court dismissed the petition and upheld the amendments as free of any constitutional infirmity.\(^8\) The Court went on to state that the amendments to the LSAA, including section 22D, would take effect once "Permanent Lok Adalats" were "set up at an early date."\(^9\)

What "Permanent Lok Adalats" means is unclear. From reading both the 2002 amendments of the Legal Services Authority Act, as well as the Court's judgment, it appears as though no Permanent Lok Adalats have yet been established in India.

\(^4\) The new Section 22D formula, "justice, objectivity, fair play, equity and other principles of justice" (again reminiscent of the "justice, equity, and good conscience" formula, see Derrett, supra note 84) differs significantly from the formula embedded in Section 20(4) of the Legal Services Authority Act which specifies that the Lok Adalat should pursue "a compromise or settlement between the parties" and in doing so "shall be guided by legal principles and the principles of justice, equity, and fair play."

\(^5\) The coercive potential of mediation in developing societies has been especially highlighted by Professor Sally Merry some years back. See Sally Merry, The Social Organization of Mediation in Non-Industrial Societies: Implications for Informal Community Justice in America, in The Politics of Informal Justice 17 (Richard Abel ed., 1982). As opposed to the mediators in Professor Merry's study, Lok Adalat judges have wielded - and with Section 22D in effect will probably continue to wield - their power with little to no check.

\(^6\) Legal Services Authority Act 22E (2002)

\(^7\) For a discussion of this strike, see J. Venkatesan, Lawyers Defy SC, Strike Work, The Hindu, December 19, 2002.

\(^8\) Pandey Vs. Union of India, Writ Petition 543/2002.

\(^9\) Ibid.
Presumably such Permanent Lok Adalats would be confined to matters dealing with public utilities. But this turns out to be a potentially elastic category, including not only transport services, postal, telegraph and telephone services, electric and water services, sanitation, hospital, and insurance services, but also "any service which the Central or State Governments may in the public interest declare to be a public utility for purposes of this chapter."10 Recall that according to the statute that created the Pension Lok Adalats, these forums were to be a "permanent and continuous body."

So, is it possible now for Pension Lok Adalats to issue non-appealable judgments on the merits of a case? Might other Lok Adalats be assimilated to the "Permanent" and "public utility" categories? Judges and lawyers with whom Krishnan spoke expressed differing views on the exact impact of the Court ruling and of the new amendments. Needless to say, more research (and clarification from judges and government officials) is required before knowing how these amendments and this judgment will affect those pursuing legal claims.

These recent events underline the extent to which the scope and powers of Lok Adalats and their relation to other legal institutions remain fluid and unresolved. Such changes represent a series of improvisations by proponents trying to strengthen and extend what they perceive as a promising institutional initiative.

At a conference on access to justice in New Delhi in November 2002, Galanter spoke, about Lok Adalats with a number of High Court and Supreme Court judges. Almost uniformly they regarded Lok Adalats as a signal success. As one judge put it, in a twist on Marie Antoinette, they are "bread for the poor. Later they can have cake." On the other hand, critics see in these moves portents of a dismantling of legality in favor of paternalistic intuitive kadi justice for the poor.11 The absence of appeals, the exclusion of lawyers, and the shift of decisional standards from legal principles" to"principles of justice suggest a major enlargement of the presiding judge's discretion

11 "Kadi justice" here refers not to the actual practice of Muslim kadis (qadis, kazis) but to Max Weber's use of the term kadjjustiz "to describe the administration of justice which is oriented not at fixed rules of formally rational law but at the ethical, religious, political, or otherwise expediential postulates of substantively rational law."
M. Rheinstein, Max Weber on Law in Economy and Society 213, n.48 (1954). An Indian synonym is "banyan tree justice."
and a robust faith that the poor have more to gain from benign paternalism than from juristic or popular legality.¹²

During the last few years Lok Adalat has been found to be a successful tool of alternate dispute resolution in India. It is most popular and effective because of its innovative nature and inexpensive style. The system received wide acceptance not only from the litigants but from the public and legal functionaries in general. In India during the last few years Lok Adalat has been functioning continuously and permanently in every district centre. In taluk centres also sittings of Lok Adalats have been held, successfully. Several thousands of pending cases and disputes which had not reached law courts have been settled through Lok-Adalats. The major defect of the mechanism of Lok Adalat is that it cannot take a decision, if one of the parties, is not willing for a settlement though the case involves an eligibleof settlement. The 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 one for settlement, under the present set-up, they cannot take a decision unless all the parties consent. In his inaugural address at the second annual meet of the State Legal Services Authorities, 1999, the then Hon'ble Chief Justice Dr. A.S. Anand airing him views stated thus:

_There will be no harm if Legal Service Authorities Act is suitably amended to provide that in case, in a matter before it, the Judges of the Lok Adalats are satisfied that one of the parties is unreasonably opposing a reasonable settlement and has no valid defence whatsoever against the claim of the opposite party, they may pass an award on the basis of the materials before them without the consent of one or more parties. It may also be provided that against such awards, there would be one appeal to the court to which the appeal would have 'gone if the matter had been decided by a court .... This course, I think, would give relief to a very large number of litigants coming to Lok Adalat at prelitigative stage as well as in pending matters._

In 2002, Parliament brought about certain amendments to the Legal Services Authorities Act 1987. The said amendment introduced Chapter VI-A with the caption PRE LITIGATION CONCILIATION AND SETTLEMENT. Section 22-B envisages

¹² India Bar Review, BCI, New Delhi; Vol. XL (4) 2013, p. 154
establishment of 'Permanent Lok Adalats (PLA)' at different places for considering the cases in respect of Public Utility Services (PUS).

If there is a dispute with respect to PUS, as per Section 22-C(I), any party to such a dispute can, before bringing it to a court of law for adjudication, make an application to PLA for the settlement of that dispute. The party making such application need not be a party who raises a claim against a public utility service. If a claim is made by one against the public, the establishment carrying out the public utility service can also raise that dispute before PLA to resolve it. The only limitation is that PLA shall not have jurisdiction to consider a dispute relating to an offence not compoundable under any law or any matter where the value of the property in dispute exceeds Rs. 10 lakhs. But the Central Government can, by an appropriate notification, increase his limit. Once an application has been made to PLA by one party, no party to that application shall invoke the jurisdiction of any court in the same dispute. PLA has to be established by the National Legal Services Authority or the State Legal Services Authorities. It shall have three members; the Chairman, who is or has been a District Judge or an Additional District Judge or has held a judicial office higher in rank than that of a District Judge and two other members having adequate experience in public utility service. Such persons shall be appointed by the State or the Central Authority, as the case may be, upon nomination by the respective Governments. But at the same time, such nomination shall be on the recommendation of the Central or the State Authority. Section 22-C(3) provides that when an application is filed raising a dispute the parties shall be directed to file written statements with appropriate proof including documents and other evidence. Copies of documents produced and statements made by the parties shall be given to each other. Thereafter PLA shall conduct conciliation proceedings between the parties to bring about an amicable settlement to the dispute.' It is the primary duty of PLA as per Section 22-C(4). While conducting such conciliation proceedings, it is incumbent on the members of PLA to assist the parties to reach an amicable settlement.
(1) The Lok Adalat or Permanent Lok Adalat\(^{13}\) shall, for the purposes of holding any determination under Legal Service Authorities Act, 1987, has the same powers as are vested in a civil Court under the Code of Civil Procedure 1908 (5 of 1908) while trying a suit in respect of the following matters namely: -

a) The summoning and enforcing the attendance of any witness and examining him on oath;

b) the discovery and production of any document;

c) the reception of evidence on affidavits;

d) the requisitioning of any public record or document or copy of such record or document from any court or office; and

e) such other matters as may be prescribed.

2) Without prejudice to the generality of the powers contained in sub-section (1), every (Lok Adalat or Permanent Lok Adalat) shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.

3) All proceedings before a (Lok Adalat or Permanent Lok Adalat) shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code (45 of 1860) 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 or Criminal Procedure, 1973 (2 of 1974).\(^{14}\)

6.1 Discovery and Production of Documents

Lok Adalat has following powers under the provisions of Order XI of Civil Procedure Code, 1908 for ordering discovery and production of documents:

6.1.1 Discovery by Interrogatories

In any suit the plaintiff or defendant by leave of the Court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such person is required to answer Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose: Provided also that interrogatories which

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\(^{13}\) Substituted by Act 39 of 2002, In section 3, for the words' Lok Adalat'.

do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court. In deciding upon such application, the Court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions or to produce documents relating to the matters in question, on any of them, and leave shall be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs.

In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the Court, either with or without an application or enquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the cost occasioned by the said interrogatories and the answer thereto shall be paid in any event by the party in fault. Interrogatories shall be in Form No.2 in Appendix C, with such variations as circumstance may require. Where any party to a suit is corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver, interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited bonafide for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage (or on ground of privilege or any other ground), may be taken in the affidavit in answer.

Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground, they are prolix, oppressive, unnecessary or scandalous; and any application for this purpose may be made within seven days after service of the interrogatories. Interrogatories shall be answered by affidavit to be filed within ten days or within such other time as the Court
may allow. An affidavit in answer to interrogatories shall be in manner as prescribed in Form No.3 in appendix C, with such variations as circumstances may require. No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court.

Where any person interrogated omits to answer, or answer insufficiently, the party interrogating may apply to Court for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer or answer further, either by affidavit or by viva voce examination, as the Court may direct.

6.1.2 Application for discovery of documents

Any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain clauses of documents, as may, in its discretion be thought fit:

Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that is not necessary either for disposing fairly of the suit or for saving costs. order as is mentioned in the last preceding rule has been made, shall specify which (if any) of the documents therein mentioned the objects or produce, and shall be in Form No.5 in Appendix C, with such variations as circumstances may require.

6.1.3 Production of documents

It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

6.1.4 Inspection of documents referred-to in pleadings or affidavit

Every party to a suit shall be entitled at any time to give notice to any other party, in whose pleadings or affidavits reference is made to any document (or who
has entered any document in any list annexed to his pleadings) or produce such
document for the inspection of the party giving such notice, or his pleader, and to
permit him or them to take copies thereof; and any party not complying with such
notice shall not afterwards be at liberty to put any such document in evidence on his
behalf in such suit unless he shall satisfy the Court that such document relates only
to his own title, he being a defendant to the suit, or that he had some other cause or
excuse which the Court shall deem sufficient for not complying with such notice, in
which case the Court may allow the same to put in evidence on such terms as to costs
and otherwise as the Court shall think fit.

Notice to any party to produce any documents referred to in his pleadings of
affidavit shall be in Form No.7 in Appendix C, with such variations as circumstances
may require. The party to whom such notice is given shall, within ten days from the
receipt of such notice, deliver to the party giving the same a notice stating the time
within three days from the delivery thereof at which the documents, or such of them as
he does not object to produce, may be inspected at the office of his pleader, or in the
case of bakers' books or other books account or books in constant use for the purposes
of any trade or business, at their usual place of custody, and stating which (if any) of
the documents he objects to produce, an on what ground. Such notice shall be in Form
No.8 in Appendix C, with such variations as circumstances may require.

6.1.5 Order for inspection

(1) Where the party served with notice under Rule 15 omits to give such notice
of a time for inspection or objects to given inspection, or offers inspection elsewhere
than at the office of his pleader, the Court, may, on the application of the party
desiring it, make and order for inspection in such place and in such manner as it may
think fit:

Provided that the order shall not be made when and so far as the Court shall be
on opinion that, it is not necessary either for disposing fairly of the suit or for saving
costs.

2) Any application to inspect documents, except such as are referred to in the
pleadings, particulars or affidavits. of the party against whom the application is made
or disclosed in his affidavit of documents, shall be founded upon an affidavit showing
of what documents inspection is sought, that the party applying is entitled to inspect them, and that 'they are in the possession or power of the other party. The Court shall not make such order for inspection of such document when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

6.1.6 Verified copies

1) Where inspection of any business books is applied for the Court, may if it thinks fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original books any and what erasures, interlineations or alternation:

Provided that, not-withstanding that such copy has been supplied, the Court may order inspection of the book from which the copy was made.

2) Where an application for an order for inspection privilege is claimed for any document, it shall be lawful for the Court to inspect the document for the purpose of deciding as to the validity of the claim of privilege (unless the document relates to matters of State.)

(3) The Court, may on the application of any party to a suit at any time, and whether an affidavit of documents shall or shall not have already been ordered or made, make an order requiring any other party to state by affidavit whether any one or more specific documents, to be specified in the application, is or are, or has or have at any time been, in his possession or power; and if not then in his possession, when he parted with the same and what has become thereof. Such application shall be made on an affidavit stating that in the belief of the deponent the party against whom the application is made has, or has at some time, had in his possession or power the document or documents specified in the application, and that they relate to the matters in question in the suit, or to some of them.

6.1.7 Premature discovery

Where the party whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court may if satisfied that the right of the discovery or inspection sought depends on the determination of any issue or question in dispute
in the suit, or that for any other reason it is desirable that any issue or question in the dispute in the suit should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserved the question as to the discovery or inspection.

6.1.8 Non-compliance with order for discovery

1) Where any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and, if a defendant, to have his defense, if any struck out, and to be placed in the same position as if he had not defended, and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect and an order may be made on such application accordingly, after notice to the parties and after giving them a reasonable opportunity of being heard).

2) Where an order is made under sub-rule (1) dismissing any suit, the trial of a suit, use in evidence any one or more of the answer or any party of an answer of the opposite party to interrogatories without putting in the others or the whole of such answer : Provided always that in such case the Court ay look at the whole of the answer, and if it shall be of opinion that any others of them are so connected with those put in that the last mentioned answers ought not to be used without them, it may direct them to be put in.

6.2 Order to apply to minors

The Order shall apply to minor plaintiffs and defendants, and to the next friends and guardians for the suit of persons under disability.

2. Effect of clause (3) - The effect of clause 3 is two-fold. One effect is penal in nature the other is procedural. To understand the penal aspect reference may be made to Sections 193,219 & 228 of Penal Code, 1860 which are extracted as under:

193 Punishment for false evidence.-

Whoever intentionally- gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,
And whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**Explanation 1** - A trial before a Court-martial (***) is a judicial proceeding.

**Explanation 2** - An investigation directed by law preliminary to a proceeding before a Court of Justice a stage of a judicial proceeding though that investigation may not take place before the Court of Justice.

**Illustration:**

A, in any enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of judicial proceedings, A has given false evidence.

**Explanation 3** - An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before the Court of Justice.

**Illustration:**

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes an oath an statement which he knows to be false. As this enquiry is at stage in a judicial proceeding.

219. **Public servant in judicial proceeding corruptly making report, .etc., contrary to law**- Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceedings, any report, order, verdict, or decision which he knows to the contrary to law, shall be punished with imprisonment of either description for a term which extend to seven years or with fine, or with both.

228. **Intentional insult or interruption to public servant sitting in judicial proceedings**—

Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of judicial proceedings, shall be punished with simple imprisonment for a term which extent to six months, or with fine which may extent to one thousand rupees, or with both.

As may be seen the effect, of the above provision is that giving of false evidence before the Lok Adalat or insult of member of Lok Adalat is a punishable
offence. At the same time members of the Lok Adalat are bound to pass orders in accordance with the law of the eland and any order contrary to the same would render it punishable under Section 219 of the Penal Code.

3. Environment protection Act- Jurisdiction of Lok Adalat regarding slaughter house -
Because environment of district was getting polluted by activities of slaughter house. Conductance of conciliation proceedings by the Lok Adalat looking to public conservancy and sanitation too place but failed in its attempt for amicable settlement. It was held that award passed by Lok Adalat for discontinuance of operation of slaughter house was proper.15

4. Permanent Lok Adalat-Jurisdiction of—

As jurisdiction was confined only to public utility service as defined under the Act, hence, it could do not entertain a matrimonial dispute.16

5. Permanent Lok Adalat-Statutory body- Permanent Lok Adalat is a statutory body. Development Authority (DDA) was recommended by Permanent Lok Adalat to hand over possession of plot. Purpose of setting up such a body would be rendered nugatory if its decisions were sought to be undermined by unreasonable stand of DDA. Particularly, where it was upon an investigation of acts and after hearing representative of DDA. Object of introducing Chapter vi 6-A in LSA Act would be defeated if DDA did not accept decision of its own Permanent Lok Adalat.17

6. Power ofLokAdalat- LokAdalat not competent to make exparte award-

In spite of notice party choose not to participate in Lok Adalat proceedings. Lok Adalat was not competent to make an ex parte award irrespective of the fact that matter was referred to Lok Adalat only for computation of amount to be paid by Insurance Company. In absence of compromise or settlement between parties Lok Adalat was under statutory obligation to return case record to Court.18

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16 Rita Kumar Shahu v. Shyam Sunder Shahu, 2007 ( 54) AIC 895 (Cal.)
18 Oriental insurance Co. Ltd. V. Calcutta High Court Legal Services Committee, AIR 2007 (NOC)
7. *Powers of summonizng and examining witnesses*- 

The Lok Adalat has been vested with powers of civil Court for summoning and enforcing the attendance of any witness and examining him on oath. Following sections of Civil Procedure Code, 1908 govern these powers:

27 *Summons to defendants*- Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed.

28 *Service of summons where defendant resides in another State* -

1) A summon may be sent for service in another State to such Court and in such manner as may be prescribed by rules in force in that State.
2) The Court to which such summons is sent shall, upon receipt thereof, proceed as if it had been issued by such court and shall then return the summons to the Court of issue together with the record (if any) of its proceedings with regard thereto.
3) Where the language of the summons sent for service in another State is different from the language of the record referred to in sub-section (2), a translation of the record,-
   a) In Hindi, where the language of the Court issuing the summon is Hindi or
   b) In Hindi or English where the language of such record is other than Hindi or English, shall also be sent together with the record under that sub-section.

29. *Service of foreign summonses*-

Summonses and other processes issued by-

a) any civil or revenue Court established in any part of India to which the provisions of this Code do not extend, or
b) any civil or revenue Court established or continued by the authority or the Central Government outside India, or
c) any other civil or revenue Court outside India to which the Central Government has, by notification in the official Gazette, declared the provisions of this section to apply.

May be sent to the Courts in the territories to which this Code extends, and served as if they were summonses issued by such Courts.
31. *Summons to witness*-

The provisions in Section 27, 28 and 29 shall apply to summonses to give evidence or to produce documents or other material objects.

32. *Penalty for default*-

The Court may compel the attendance of any person to whom a summon has been issued under Section 30 and for that purpose may-

a) issue a warrant for his arrest;
b) attach and sell his property;
c) Order him to furnish security for his appearance and in default commit him to the civil prison.

75. *Power of courts to issue commissions*—subject to such conditions and limitations as may be prescribed the Court may issue a commission-

a) to examine any person;
b) to make a local investigation;
c) to examine or adjust accounts; or

d) to make a partition;
e) to hold a scientific, technical, or expert investigation;
f) to conduct sale of property which is subject to speedy and natural decay and which is in the custody of the Court pending the determination of the suit;
g) to perform any ministerial act.

76 *Commission to another court*—

(1) A commission for the examination of any person may be issued to any Court (not being a High Court) situate in a State other than the State in which the Court of issue is situate and having jurisdiction in the place in which the person to be examined resides.

(2) Every Court receiving a commission for the examination of any person under subsection (1) shall examine him or cause him to be examined pursuant thereto, and the commission, when it has been duly executed, shall be returned together with the evidence taken under it to the Court from which it was issued, unless the order for issuing the commission has Otherwise directed, in which case the commission shall be returned in terms of such order.
77. Letter or Request-

In lieu of issuing a commission the Court may issue a letter of request to examine a witness residing at anyplace not within India.

8. On issue of summons for final disposal, defendant to be directed to produce his witness-

Where the summons is for the final disposal of the suit, it shall also direct the defendant to produce, on the day fixed for his appearance, all witnesses upon whose evidence he intends to rely in support of his case.

A tribunal though vested with the several powers of civil Court, when the power to add a party is not expressly vested in it, such power to add parties cannot be exercised impliedly by Tribunal as incidental to its powers to summons and adjudication. Though in exercise of its powers to summon to third parties, it may summon them and any decision thereafter may be binding on such person as well.19

9. Procedure for settlement of dispute before permanent Lok Adalat-

In the instant case the contesting parties were granted sufficient opportunity to address the Court on their respective plea and reasoned order thereafter had also been passed by the Permanent Lok Adalat while deciding the dispute, the contention that the procedure laid down under the Act, had not been followed, was a totally unacceptable argument being devoid of merit.20

10. Reception of evidence on affidavits- Affidavits are not evidence within the meaning of Section 3 of Evidence Act, 1872. But in appropriate case the Court may rely on affidavits. Provisions of Order XIX of Civil Procedure Code, 1908 govern the affidavits. There provisions are as under-

1. Power- to order any point to be proved by affidavit.- any court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:


20 Life Insurance Corporation of India v. District Permanent Lok Adalat, AIR 2004 Raj 327.
Provided that where it appears to the Court that either party bonafide desires the production of a witness for cross-examination, and that such witness can produced, an order shall not the made authorizing the evidence of such witness to be given by affidavit.

2. Power to order attendance of deponent for cross-examination-

(1) Upon any application evidence may be given by affidavit, but the Court, may, at the instance of either party, order the attendance for cross-examination of the deponent.

(2) Such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court or the Court otherwise directs.

(3) Matters to which affidavits shall be confined-

(1) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove except on interlocutory applications, on which statements of his belief may be admitted; provided that the grounds thereof are stated.

(2) The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party filing the same.

11. Requisitioning of any public record or document- The power of Lok Adalat for requisitioning of any public record or documents or copy of such record or documents from any court or office can be traced to following Rule 5 of Order XIII of the Civil Procedure, Code, 1908:-

5. Endorsements on copies of admitted entries in books, accounts and records.-

(1) Save in so far as it otherwise provided by the Bankers' Books Evidence Act, 1891 (18 of 1891) where a document admitted in evidence in the suit is an entry in a letter-book or a shop-book or other account in current use, the party on whose behalf the book or, account is produced may furnished a copy of the entry.

(2) Where such a document is an entry in public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account in produced, the Court may require a copy of the entry to be furnished-
(a) where the record, book or account is produced on behalf of a party, then by that party, or

(b) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

(c) Where a copy of an entry is furnished under the foregoing provisions of this rule, the Court shall, after causing the copy to be examined, compared and certified in manner mentioned in Rule 17 or Order VII, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

12. Validity of award of Lok Adalat passed by Chairman and one Member.- Where the improved award was made by Chairman and one member of PLA in accordance with sub- section (3) of Section 22-E of the Act which provides that the award shall be made by majority of the persons constituting the PLA and as per subsection(2) of Section 228 of the Act, one Chairman and two members had constituted the PLA. Therefore, award made by Chairman and one Member was to be considered as passed by majority of persons constituting Lok Adalat.21

Establishment of Permanent Lok Adalat:

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

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

a) a person 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, shall be the Chairman of the Permanent Lok Adalat; and

b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority.

Appointed by the Central Authority or as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be such as may be prescribed by the Central Government.

Establishment of Permanent Lok Adalat- Public utility service includes insurance service also:-

Public Utility Service includes insurance services as per Clause (vi) of Section 22-A. As per Section 22-C Permanent Lok Adalat is empowered to decide disputes relating to Public Utility Services, even where parties had failed to reach an agreement. In the instant case, Life Insurance Policy was taken by husband (since deceased) of respondent No.3. It was rendered with effect from, March, 2000. Statement of claimant (respondent No.3) was that the insured was in good health when he died on 12.5.2002. It was not traversed by the appellant corporation. It has been rightly held by the Permanent Lok Adalat that the Life Insurance Policy could not be questioned/repudiate by the in Truer on the ground that the insured had concealed the fact that he was suffering from diabetes. As policy was not repudiated within two years as per Section 45 of the Insurance Act, 1958 and insurer had failed to show suppression of material fact or false or fraudulent statement on then part of insured hence, no interference was warranted the award of permanent Lok Adalat as upheld in writ petition by Single Judge.²²

22-C Cognizance of cases by Permanent Lok Adalat.-

1) Any Party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute. Provided that the Permanent Lok Adalat shall also 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 dispute.

3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it:

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

   b) may require any party to the application to file additional statement before it at any stage of the conciliation proceeding;

   c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstance of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceeding under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

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

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

Claim petition- Jurisdiction of permanent Lok Adalat

Matter relating to an offence of burglary and house breaking under Section 379 I.P.C. It was not compoundable offence under any law. Permanent Lok Adalat had no jurisdiction to entertain claim application under section 22-C of Act. Further order of permanent Lok Adalat that finding of criminal court in non-compoundable offence was not binding on it was erroneous.23

2. Cognizance of case by Lok Adalat.- It was held that Lok Adalat was competent to adjudicate dispute and pass award even without compromise having been arrived at between parties. 24

3. Jurisdiction of Permanent Lok Adalat.- There was burglary and House breaking policy. Insurance claim was filed by appellant. For purpose of determination of issue and claim in question. Permanent Lok Adalat was not required to determine whether offence committed by any accused is compoundable or not It had jurisdiction to decide claim as made by appellant, on merit even if parties fail to compromise matter. 25

4. Permanent Lok Adalat could pass an award even with a compromise between parties if dispute involved a Public Utility Service.- The submission of the Counsel for the appellant overlooks the provisions of Chapter VI-A of the Legal Services Authority Act 1987. This chapter deals with pre-litigation conciliation and settlement, which provides, for establishment of permanent Lok Adalat at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified by the State Authority by means of a

24 State of Rajasthan V. Silochana Devi AIR 2006 Raj 5.
25 Ajay Singh V. Branch Manager, United India Insurance Co. Ltd.,AIR 2006 Thar. 113
notification. Section 22-B provides for establishment of permanent Lok Adalats. Public Utility Service has been defined under Section 22-A (b) of the Act of 1987. It is clear from the definition that the public utility service includes insurance service. As per subsection (8) of Section 22-C the permanent Lok Adalat can decide the dispute relating to public utility service even where the parties failed to reach at an agreement. Thus, in so far as the dispute arising from a public utility service is concerned, Permanent Lok Adalat can pass an award even without a compromise having been arrived at between the parties.26

5) For the purpose of attending the sitting of Permanent Lok Adalat, the Chairman and other person shall be entitled to conveyance allowance of rupees three thousand per month.

4. Terms and Conditions of Service of Chairman and other person of Permanent Lok Adalat-

(1) Before appointment, the Chairman and other person, shall have to take an undertaking that he does not and will not have any such financial or other interest as is likely to affect, prejudicially his functions and such chairman or other person.

2) The chairman and other persons shall hold office for a term of five years and shall not be eligible for reappointment.

3) Notwithstanding anything contained in sub-rule (2), Chairman or other persons may-

a) by writing under his hand and addressed to the Central Authority or as the case may be, the State Authority, resign his office at any time;

b) be removed from his office in accordance with the provision of Rule 5.

4) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most (in order of appointment) person of Permanent Lok Adalat holding office for the time being shall discharge the functions of the Chairman until the day on which the chairman resumes the charge of his functions.

(5) The Chairman or any other person ceasing to hold office as such shall not hold any appointment in, or be connected with, the management or administration of

an organization which has been the subject of the proceeding under the Act during his tenure for a period of five years from the date on which he ceases to hold such office.

5 Resignation and removal- The Central Authority or State Authority, as the case may be, may remove from office, Chairman or other person who-

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Authority involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such Chairman or other person; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as Chairman or other person; or

(e) has or so abused his position as to render his continuance in office Prejudicial to the public interest.

Provided that the Chairman or any other person shall not be removed from his office on the grounds specified in clauses (d) and (e), except on inquiry held in accordance with the procedure prescribed in Rule 6.

6. Procedure for Inquiry-

(1) Whenever the Central Authority or, as the case may be, State Authority is of the opinion that an allegation under clause (d) or clause (e) of Rule 5 is required to be inquired into, it may hold an inquiry against the Chairman or other person and shall draw or cause to be drawn up the substance of the allegation which shall contain a statement of relevant facts and a list of documents and witnesses.

2) The Central Authority or, as the case may be, State Authority shall deliver or cause to be delivered to the Chairman or other person a copy of the allegation and a list of documents and witnesses and shall require him to submit within such time as may be allowed a written reply or statement of his defense.

3) If the allegations are admitted by the Chairman or other person, the Central Authority or, as the case, may be, State Authority shall record reason and remove the Chairman or other person.

4) Where the charges have been denied by the Chairman or the other person, the Central Authority or, as the case may be, State Authority may appoint an officer
to inquire into the truth of the allegations and it may also appoint a Presiding Officer to present the case on behalf of the Central Authority or, as the case may be, State Authority before the Inquiry Officer.

5) The Inquiry Officer shall give an opportunity to the Presiding Officer to present the case within such time as may be allowed by the Inquiry Officer from time to time. After the evidence is closed by the presenting Officer, the Chairman or other person, as the case may be shall be given an opportunity to present his defence in respect of allegations within such time as may be allowed by the Inquiry Officer.

6) The Inquiry Officer shall have power to call witnesses and record their statements or receive evidence on affidavits or call for production of documents or other relevant records, which may be necessary for the inquiry.

7) The Inquiry Officer shall submit his report within a period of six month or within such time as may be extended by the Central Authority or as the case may be, State Authority.

8) If the Central Authority or, as the case may be, State Authority is satisfied that the charge are proved on the basis of the report submitted by the Inquiry Officer, it shall remove the delinquent Chairman or other person, as the case may be.

7. Place of Sitting-

(1) The Permanent Lok Adalat may sit at a place specified by the Central Authority, as the case may be.

(2) The working days—and office hours of the Permanent Lok Adalat shall be the same as that of the Central Government or the State Government as the case may be.

(3) The sitting of the Permanent Lok Adalat, as and when necessary, shall be convened by the Chairman.

8 Staff of Permanent Lok Adalat:-

The Central Government or the State Government as the case may be, shall provide such staff as may be necessary to assist the Permanent Lok Adalat in its day to day work and perform such other functions as are provided under the Act and these rules, assigned to it by the Chairman. The salary payable to such staff shall be
defrayed out of the Consolidated Fund of India or the Consolidated Fund of the State, as the case maybe.

1. To empower public especially women to participate in justice delivery mechanism.
2. Methodology.
3. The Parivarik Mahila Lok Adalat functions on the model of the Lok.

9. Benefits of Lok Adalat

- Cases are amicably settled by the parties in a harmonious atmosphere.
- It saves time, effort and expenses.
- Long pending disputes in the courts can be settled through the Lok Adalat expeditiously are given to the parties free of cost.
- The decision of the Lok Adalat is final and there is no appeal against the same.

10. Validity of Award of Lok Adalat.

- Under the Legal Service Authority Act, 1987, the decisions of the Lok Adalat have legal validity.
- The Award of the Lok Adalat has the same force as a decree of the Court of Law.
- The decisions of the Lok Adalats are based on terms of mutual consent of the parties.
- The decisions of the Lok Adalat are binding on the parties.

11. How to Organize PMLA?

- The NGOs approach the DLSA or District Judge and collect information about pending cases of family disputes within the district.
- The DLSA selects women related cases which are admissible in the Lok Adalat and makes relevant files/case papers available to the NGOs.
- It is expected that minimum 60 cases shall be taken up for handling in PMLA.
- NGOs should take written permission from DLSA to do the counselling in selected cases.
The Indian Legislature made headway by enacting the Legal Services Authority Act, 1987 by constituting the National Legal Services Authority as a Central Authority with the Chief Justice of India as its patron in chief. The Central Authority has been vested with duties to perform, inter-alia the following functions:-

1. To encourage the settlement of disputes by way of negotiations, arbitration and conciliation.

2. To lay down policies and principles for making legal services available in the conduct of any case before the court, any authority or tribunal.

3. To frame most effective and economical schemes for the purpose.

4. To utilize funds at its disposal and allocate them to the State and District Authorities appointed under the Act.

5. To undertake research in the field of legal services.

6. To recommend to the Government grant-in-aid for specific schemes to voluntary institutions for implementation of legal services schemes.

7. To act in coordination with government and non-governmental agencies engaged in the work of promoting the cause of legal services.  

Present Position:

The concept of Lok Adalat is no longer an experiment in India, but it is an effective and efficient alternative mode of dispute settlement. The true basis of settlement of disputes by the Lok Adalat is the principle of mutual consent, voluntary acceptance of conciliation with the help of counsellors and conciliators. It is a participative, promising and potential ADRM.

Gujarat was the first state to organize Lok Adalats in India in 1982. At Una in Junagarh district of Gujarat, the first Lok Adalat was organized on 14th March, 1982.

Lok Adalat shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it. Cognizance of cases by Permanent Lok Adalats any party to a dispute, up to the value of Rs. 25 lakh, may before the dispute is brought before any court, make an application to the Permanent Lok Adalat for settlement of the dispute. Every Award of the Permanent Lok Adalat made either on merit or in terms of a settlement agreement shall be final and binding on all the parties.

27 <http://www.mediate.com/articles/bha>
have there to and on persons claiming under them. Every Award of the Permanent Lok Adalat shall be deemed to be a decree of a civil court.

**Procedure of Permanent Lok Adalat:-**

The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure and the Indian Evidence Act, 1872 (See 22D of LSAA).

Award of Permanent Lok Adalat to be final. 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.