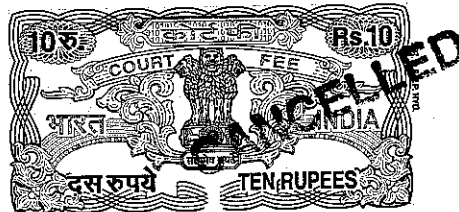


(7)



(4)

Single Bench

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (227) NO. 818 OF 2012

IN THE MATTER OF ARTICLE 227 OF  
THE CONSTITUTION OF INDIA ;

AND

IN THE MATTER OF CODE OF CIVIL  
PROCEDURE, 1908 ;

AND

R No. 818/12  
Presented by Shri. ~~R. Anand~~ Amrito  
Dated 29/11/12

IN THE MATTER OF LEGAL SERVICES  
AUTHORITIES ACT, 1987 ;

PETITIONER  
DEFENDANT

Iffco Tokio General Insurance  
Company Ltd., through Branch  
Manager, Customer Service Centre,  
3<sup>rd</sup> Floor, Plot No. 7, Quality  
Business Centre Zone-II, M.P.  
Nagar, Bhopal, Madhya Pradesh  
(wrongly typed as Chhattisgarh in  
the award)

VERSUS

RESPONDENT  
APPLICANT

M/s Baldev Infra Projects Pvt. Ltd.  
through it's Proprietor, Dinesh  
Somani, son of Shri Shantilal  
Somani, aged about 34 years,  
resident of Motitalabpara, Jagdalpur,  
District Bastar, Chhattisgarh



WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA  
FOR ISSUANCE OF APPROPRIATE AND SUITABLE WRITS, DIRECTION  
OR DIRECTIONS, ORDER OR ORDERS



27

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (227) No. 818 of 2012**

Iffco Tokio General Insurance Company Ltd.

Vs

M/s Baldev Infra Projects Pvt. Ltd.

Post for pronouncement of judgment on 21 /01/2013

Sd/-  
N. K. Agarwal  
Judge



**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (227) No. 818 of 2012**

**PETITIONER** : Iffco Tokio General Insurance Company  
**Defendant** Ltd.

**VERSUS**

**RESPONDENT** : M/s Baldev Infra Projects Pvt. Ltd.  
**Applicant**

**(WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA)**

**(SB: Hon'ble Mr. N.K. Agarwal, J.)**

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**Present** : Shri Amrito Das, Advocate for the petitioner.  
Shri PK Tulsyan, Advocate for respondent.

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**JUDGMENT**

**(Delivered on 31.01.2013)**

1. Instant petition filed under Article 227 of the Constitution of India calls in question the legality and propriety of the award dated 30.08.2012 passed by permanent Lok Adalat, Bastar at Jagdalpur in Case No. 44/2012 awarding Rs. 78,244/- along with interest @ 7.5 percent per annum from the date of application till its actual payment in favour of respondent.
2. Facts in nutshell necessary for disposal of this petition are that: respondent is registered owner of one Mahindra Bolero Jeep (LLX) bearing registration No. CG-17-D-3009. The said vehicle was insured by the petitioner by issuing comprehensive policy. Damage was caused to the vehicle in an accident and thereafter the respondent got the same repaired. Total alleged expenses incurred



was Rs. 1,97,021/- while the appellant/company has paid only Rs. 1,18,777/- to the respondent.

3. The respondent preferred an application under Section 22(1) of the Legal Services Authority Act, 1987 (for short, 'the Act, 1987') before the permanent Lok Adalat claiming difference amount of Rs. 78,224/-.
4. Vide award impugned, the Lok Adalat, awarded aforesaid sum in respondent's favour. Hence this petition.
5. The only question raised by Shri Amrito Das, counsel for the petitioner is that, as per Section 1(3) of the Act, 1987, the Act shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State. It was further contended, Chapter-VI-A of the Act, under which the permanent Lok Adalats have been established, was inserted by the Legal Services Authorities (Amendment) Act, 2002 (37 of 2002) (for short, 'the Act, 2002') w.e.f. 11.06.2002 in the Act, 1987, but no notification has been issued by the Central Government in terms of Section 1(3) of the Act, 1987, and therefore, amended provisions of Chapter-VI-A of



the Act, 2002, have not come into force and the order passed by the permanent Lok Adalat was without jurisdiction.

6. On the other hand, Shri PK Tulsyan, learned counsel appearing for the respondent would contend: The Act, 2002, received the assent of the President on 11.06.2002 and thereby the amended provisions of Chapter VI-A came into force on that date and accordingly permanent Lok Adalats have been legally established in the State of Chhattisgarh and the order passed by the permanent Lok Adalat cannot be said to be without jurisdiction, and therefore, it was not correct to say that provisions of Chapter-VI-A are not applicable in the State of Chhattisgarh.
7. I have heard the counsel appearing for the parties and perused the award impugned including paper book.
8. 'Commencement' used with reference to an Act, means the day on which the Act comes into force. Unless provided otherwise, a Central Act comes into operation on the day it receives the Presidential assent and is construed as coming into operation immediately on the expiration of the day preceding its commencement. (Please See-Common cause v. Union of India and others<sup>1</sup>). Thus, if a Central Act is assented to by the President on 11.06.2002, it would be construed to have come into operation on the mid-night between 10<sup>th</sup> and 11<sup>th</sup> June.



9. In order to resolve the controversy, it would be appropriate to reproduce Section 5 of General Clauses Act, which reads as under :

“5. Coming into operation of enactments-

(1) Where any Central Act is not expressed to come into operation on particular day, then it shall come into operation on the day on which it receives the assent, --

(a) in the case of a Central Act made before the commencement of the Constitution, of the Governor-General, and

(b) in the case of an Act of Parliament, of the President.

(2) omitted

(3) Unless the contrary is expressed, a Central Act or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.”

10. It is plain and evident from the language of the provisions that, where any Central Act is not expressed to come into operation on particular day, then it shall come into operation on the day on which it receives the assent of the President in the case of an Act of Parliament, and when the Legislature itself provides that the date of coming into force of the Act would be a date to be notified by the Central Government, then, the Act shall come into force on the date such notification issued by the Central Government.
11. When the Act, 1987, was initially enacted, its enforcement was subject to notification issued by the Central Government. Therefore,



although, the Act, 1987, was enacted in the year 1987, but it came into force vide Central Government's notification dated 09.11.1995, however, there is no such provisions in the Act, 2002, and therefore, Section 5 would be applicable in the instant case and the amended proviso to Chapter VI-A had came into force on 11.06.2002, when it received the assent of the President and was also published in the official gazette.

12. Therefore, the submissions made by Shri Amrito Das are misconceived and devoid of merit.
13. No other points have been raised.
14. In the results, the appeal being devoid of merit is liable to be and is hereby dismissed. No order as to costs.

Sd/-  
N. K. Agarwal  
Judge

Sahu