

**IN THE HIGH COURT FOR THE STATE OF TELANGANA:
HYDERABAD**

*** * ***

WRIT PETITION No.18600 of 2014

Between:

Smt. Savithri and Another.

Petitioners

VERSUS

Evusula Gangamma and Others.

Respondents

ORDER PRONOUNCED ON: 23.07.2024

**THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU**

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : **Yes**

P.SAM KOSHY, J

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THE HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU
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! Counsel for Petitioners

: Mr. T.Srujan Kumar
Reddy

^Counsel for the Respondent No.1 and 2
Counsel for the Respondent No.3

: Mr. Bhushan Reddy
: Mr. Paidi Krishna
Reddy

<GIST:

> HEAD NOTE:

? Cases referred

1) 2011 SCC OnLine MP 2508

2) 2022 SCC OnLine AP 73

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU

WRIT PETITION No.18600 of 2014

ORDER: (per the Hon'ble Sri Justice **P.SAM KOSHY**)

Heard Mr. T.Srujan Kumar Reddy, learned counsel for the petitioners, Mr. Bhushan Reddy, learned counsel for the respondent Nos.1 and 2 and Mr. Paidi Krishna Reddy, learned counsel for the respondent No.3.

2. The present is a classic case of both glaring fraud played in obtaining an award from the Lok Adalat and secondly another classic example of a case which is directly hit by the doctrine of “no man can be judge in his own cause.”

3. The present writ petition under Article 226 of the Constitution of India is filed by the petitioners challenging the award dated 16.04.2013 in O.S.No.20 of 2013 passed by the Lok Adalat at Bichkunda Mandal, Nizamabad District.

4. The case revolves around to set of lands which stood in the name of one late Sri E.Vittal Reddy measuring Ac.7.04 guntas in

Survey No.122 and Ac.0.18 guntas in Survey No.225 situated at Shanthapoor Village, Bichkunda Mandal, Nizamabad District. The said Sri E.Vittal Reddy was the brother of petitioner No.2's paternal grandmother. He was a bachelor and died intestate. Respondent No.1 is the sister of petitioner No.1's husband and respondent No.2 is the daughter of respondent No.1. The grandmother of petitioner No.2 (father's mother) and the above mentioned Sri E.Vittal Reddy were brother and sisters.

5. In order to siphon off the property which stood in the name of Sri E.Vittal Reddy, the details of which is given in the earlier paragraph, a collusive Suit was filed by the so-called plaintiffs i.e. respondent Nos.1 and 2 and the aforementioned Sri E.Vittal Reddy, as the defendant. The said Suit was registered as O.S.No.20 of 2013 for grant of perpetual injunction which the plaintiffs have sought against the defendant. The relief sought for was also for permanently restraining the defendant from causing any sort of interference and peaceful possession of the plaintiffs over the Suit schedule property. If the petitioners are to be believed, the defendant Sri E.Vittal Reddy was by that time seriously ill and it is said that he died on 30.04.2013.

6. Now it is here that all the arbitrariness and fraud that begins. O.S.No.20 of 2013 i.e. the aforementioned Suit for perpetual injunction by the respondent Nos.1 and 2 herein was filed in the Court on 16.04.2013. On the very same day, the same gets registered, on the very same day it is placed before the concerned Court, on the very same day the matter stands referred to the Lok Adalat and on the very same day in the presence of the parties to the proceedings including the defendant even before taking cognizance on the Suit and issuing notices to the defendant, the compromise settlement is arrived at and the award is passed by the Lok Adalat on the very same day i.e. on 16.04.2013. This manner of proceeding with the case at an electrifying speed where the entire case gets filed, registered and disposed of within a matter of few hours on one single day i.e. on 16.04.2013 smacks arbitrariness and great element of fraud that stands reflected.

7. This Bench is surprised as to how the Presiding Officer also could be a party to the manner in which things have proceeded. We are constrained to observe that the Presiding Officer seems to have turned a blind eye to the entire proceedings whatsoever be the reasons for the same, which in the opinion of this Bench is not

appreciable at all. Since it is a matter of more than eleven (11) years old, we do not want to delve into that aspect at this juncture except for deprecating such a practice.

8. Coming to the issue of the case being a classic example which is hit by the doctrine of “no man can be a judge in his own cause” is for the reason that the aforesaid O.S.No.20 of 2013 filed by the plaintiffs was being represented by a counsel named G.Malleshwar as would be evident from the plaint and affidavit itself. Now coming to the impugned award, it would reflect that the very same counsel was also a member of the Lok Adalat which disposed of O.S.No.20 of 2013. This again is one which is never heard of inasmuch as the counsel for one of the parties himself sitting in the committee of members constituting the Lok Adalat.

9. Today during the course of hearing, it has been informed that so far as the conduct of the counsel is concerned, the same has already been taken cognizance of by the concerned Bar Council by initiating disciplinary proceedings. Since the Bar Council i.e. the appropriate forum under the Advocates Act to take disciplinary action having already been seized of the matter, we do not want to further delve into the issue, else it may have an adverse bearing to

the disciplinary proceedings which could be detrimental. Therefore, we leave to the concerned committee to take appropriate action in accordance with the law so far as the conduct of the Presiding Officer is concerned. The said aspect also needs to be taken up on the administrative side by the High Court after due verification of the aspect as to whether the said Presiding Officer is still in service or not and for which the matter may be placed before the Registrar (Vigilance) of this High Court.

10. Without further going into the merits of the case, for both the reasons we are convinced that the impugned award dated 16.04.2013 passed in O.S.No.20 of 2013 by the Lok Adalat at Bichkunda Mandal, Nizamabad District, is not sustainable and is one which is obtained by playing fraud and fraud vitiates everything and it also nullifies the order and its consequences. Therefore, we have no hesitation in reaching to the conclusion that a strong case for allowing the writ petition has been made out.

11. The order of this Bench stands fortified by the decision of the Madhya Pradesh High Court wherein in somewhat similar

circumstances, the High Court in the case of **Jagdish Prasad v.**

Sangamlal and Others¹ has held as under:

“5. I have considered the submissions made on both sides. It is well settled in law that Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat determines the reference on the basis of a compromise or settlement between the parties and puts its seal of confirmation by making the award in terms of compromise. It is equally well settled legal proposition that if any party wants to challenge the award based on settlement, the same can be examined in a writ petition under Article 226 and/or 227 on very limited grounds. [See : Jalour Singh (supra)]. In Kiran Singh v. Chaman Paswan, AIR 1954 SC 340 it has been held that a judgment or decree obtained by playing fraud on the Court is a nullity and non est in the eyes of law and its invalidity can be challenged even in collateral proceedings. Similar view has been taken in S.P. Chengalvaraya Naidu (dead) by L.Rs. v. Jagannath(dead) by L.Rs., (1994) 1 SCC 1 : AIR 1994 SC 853 and in 2008 AIR SCW 6654. Though the award of a Lok Adalat is not a result of a contest on merits, just as a regular suit by a Court in a regular trial is, however it is as equal and on par with a decree on compromise and will have same binding effect and be conclusive [See : P.T. Thomas v. Thomas Job, (2005) 6 SCC 478. It is trite law that validity of a compromise decree can be challenged on the ground that it was obtained by playing fraud. [See : A.A. Gopalkrishnan v. Cochin Devaswom Board, (2007) 7 SCC 482]. Since the award passed by the Lok Adalat is akin to a compromise decree, its validity can be challenged by a party in a writ petition on the ground that the same has been obtained by playing fraud. “Fraud” means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:— (1) the suggestion, as a fact, of that which is not true by one who does not believe it to be true; (2) the active concealment of a fact by one having knowledge or belief of the fact; (3) a promise made without intention of performing it; (4) any other

¹ 2011 SCC OnLine MP 2508

act fitted to deceive; (5) any such act or omission as the law specially declares to be fraudulent. [See : Advanced Law Lexicon by P. Ramanatha Aiyar, Third Edition Reprint 2007].;”

12. Further, the High Court of Andhra Pradesh in the case of **Yalamarthy Narsimha Rao v. District Legal Services Authority, Rep. by its Secretary and Others**² in paragraph Nos.9, 11 and 12 has held as under:

“9. The point that arises for consideration is, whether the Legal Services Authority was right in recording the compromise between the parties without the writ petitioner being made as a party to the said proceedings?”

11. But, when an award of Lok Adalat was obtained by misrepresentation, fraud or without due compliance with the provisions of the Act and that it was not preceded by a compromise/settlement, it can be challenged in a Writ Petition (Sri Durga Malleswari Educational Society⁴). The challenge to the award of the Lok Adalat, in proceeding under Article 226 of Constitution of India, can be entertained only at the behest of parties to the settlement/compromise before the Lok Adalat, and not by anyone else (Sanjay Kumar's case cited (2) supra). It was further observed that ordinarily a third party cannot challenge the award in a writ petition, even if such an award causes prejudice. The remedy of such party would be to institute a separate suit within the period of limitation prescribed under law for necessary redressal, and seek an appropriate decree. As a Civil Court can even declare that an earlier decree of the Court is not binding on the party before it, there can be no objection for a third party to institute a suit in a Civil Court seeking a declaration that the award Lok Adalat was not binding on him. But, there may be extraordinary cases where a third party is meted out with injustice at the behest of two or three conniving and colluding parties who

² 2022 SCC OnLine AP 73

may have obtained an award of the Lok Adalat by fraud or misrepresentation only to defeat the rights of the third party. In such cases, such third party may maintain a writ petition, but there should be prima-facie evidence of fraud or misrepresentation or collusion in obtaining an award of the Lok Adalat. The Division Bench further observed, as under:

“Judicial review is available to test the validity of awards passed by the Lok Adalat on limited grounds, one of which is when a party alleges that there was no settlement enabling an award being passed. If it is shown that there is no settlement or compromise, or that settlement or compromise itself is vitiated by fraud or misrepresentation, it would be a fit case for interference. Except the remedy of challenging the Lok Adalat award on limited grounds, no other authority or Court can question the award of Lok Adalat which shall be treated as final and binding. (Sanjay Kumar⁸; Sri. Durga Malleswari Educational Society⁷). In the absence of a statutory remedy of an appeal, an award can be subjected to challenge in writ proceedings invoking the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India. As the jurisdiction, which this Court exercises under Article 226 of the Constitution of India is extra-ordinary, and as the power of judicial review under Article 226 is part of the basic structure of the Constitution (L. Chandra Kumar v. Union of India), it cannot be circumscribed or negated by legislation plenary or subordinate. Availability of the remedy, of invoking the extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India, would not per se disable a person aggrieved from invoking the jurisdiction of the Civil Court”.

12. *In State of Punjab v. Jalour Singh, cited (1) supra, the question before the Hon'ble Supreme Court was as to the remedy that is available to the person aggrieved of the award passed by the Lok Adalat under Section 20 of the Legal Services Authorities Act, 1987. In the said case, the award was passed by the Lok Adalat which has resulted in appeal pending before the High Court, relating to a claim arising out of a Motor Vehicles' Act. One party to the appeal questioned the correctness and legality of the award passed by the Lok Adalat under Article 226/227 of Constitution of India. The High Court dismissed the writ petition holding it, is not maintainable. Aggrieved thereto, he preferred an appeal by way of*

Special Leave before the Hon'ble Supreme Court. After examining the scheme of the Act, it would hold that the only remedy available to the aggrieved person was to challenge the award of Lok Adalat by filing a writ petition under Article 226 or 227 of Constitution of India in the High Court and that too on very limited grounds.”

13. Accordingly, the impugned award of the Lok Adalat dated 16.04.2013 in O.S.No.20 of 2013 passed by the Lok Adalat Bench at Bichkunda Mandal, Nizamabad District being unsustainable, deserves to be and is accordingly set-aside.

14. Considering the manner in which all the parties involved in deciding of the matter before the Lok Adalat and also considering the role played by each of the stakeholders in deciding of the matter before the Lok Adalat:

- a)** Be it the Presiding Officer of the Court under whose nose the entire proceedings transpired in an electrifying speed.
- b)** Where filing of the Suit, registration of the Suit, listing of the matter before the Court, referring the matter to Lok Adalat, the appearance of the respondents before the Lok Adalat and final disposal of the Suit in terms of the so-called settlement through the impugned award all on the very same day i.e.

16.04.2013 by itself reflects some element of connivance at all levels.

- c) The entire proceedings initiated is at the behest of respondent Nos.1 and 2 and it clearly demonstrates both the misuse as also abuse of the judicial process and in the process the purity of the fountain of justice stands tainted.

15. Under the said circumstances, we are compelled to allow the present writ petition with costs of Rs.25,000/- to be paid by respondent Nos.1 and 2 to the High Court Legal Services Authority within a period of thirty (30) days from the date of receipt of a copy of this order.

16. As a sequel, miscellaneous petitions pending if any, shall stand closed.

P.SAM KOSHY, J

SAMBASIVARAO NAIDU, J

Date: 23.07.2024

Note: LR Copy to be marked.

B/o.GSD