

THE HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY

CIVIL REVISION PETITION No.2 OF 2017

ORDER:

This Civil Revision Petition is filed assailing the orders dated 09.10.2015 in I.A.No.238 of 2007 in O.S.No.697 of 2006 on the file of the Principal Junior Civil Judge, Warangal.

2. Application in I.A.No.238 of 2007 was filed under Order 22, Rule 3(A) of Civil Procedure Code (for short 'CPC') to set aside the compromise decree passed by Lok Adalat on 26.04.2006 in O.S.No.697 of 2006 on the file of the Principal Junior Civil Judge, Warangal. Learned Principal Junior Civil Judge, Warangal has allowed the said application by setting aside the Lok Adalat Award dated 26.04.2006 in O.S.No.697 of 2006 on the file of the Principal Junior Civil Judge, Warangal. Feeling aggrieved by the same, the defendant has filed this CRP.

3. Heard the learned counsel on both sides. The submissions made by the learned counsel on either sides have received due consideration of this Court. Perused the record.

4. For the sake of convenience the parties are hereinafter referred to as plaintiff and defendant as they were arrayed in OS No.697 of 2006 before the trial Court.

5. The plaintiff has filed O.S.No.697 of 2006 on the file of the Principal Junior Civil Judge, Warangal for the relief of perpetual injunction in respect of the suit schedule property and during pendency of the suit, the matter was referred to the Lok Adalat and it was settled in terms of compromise and an award was passed before the Lok Adalat on 26.04.2006. After passing the award before the Lok Adalat, the plaintiff has filed an application in I.A.No.238 of 2007 in O.S.No.697 of 2006 to set aside the award dated 26.04.2006 passed before the Lok Adalat.

6. Be it stated that the trial Court, after recording the evidence of PWs.1 to 5 and marking Exs.P1 to P5 on behalf of the plaintiff, has passed the impugned order. The relevant portion of the said order is extracted as below :

“From sum of the above fact and discussion, it is clear that award passed by the Lok Adalat is beyond the scope of alleged terms of compromise arrived between the petitioner and the respondent and basing

on that award Thota Sateesh cannot obtain the sale deed. The evidence of PWs.4 and 5 coupled with the evidence of PWs.1 and 2 clearly show that for the purpose of obtaining the decree of compromise, the respondent kept the life of husband of under threat and compelled the petitioner to sign on terms of compromise. So, the terms of compromise itself is vitiated by coercion. Consequently, the award passed by the Lok Adalat basing on these terms of compromise is illegal. Moreover as discussed supra, the award is exceeding the terms of compromise and the award is passed as if it is for specific performance of contract in favour of the third party to the present suit. In those circumstances, the petitioner is justified in challenging the award passed by the Lok Adalat. By the time of filing the petition there is no clear decision whether a suit can be filed challenging the award passed by the Lok Adalat and petition is filed as per the decision No.1 relied on by the counsel for the petitioner. Decision No.3 is recently cited and by that time already enquiry was completed and evidence was adduced by the petitioner. At this stage basing on technicalities, dismissing the petition directing the petitioner to file a suit is not proper. Hence, it is a fit case to set aside the award passed by the Lok Adalat on 26.04.2006.

7. Feeling aggrieved by the impugned order passed by the trial Court setting aside the Lok Adalat Award dated 26.04.2006, the defendant has filed this CRP alleging that the Principal Junior Civil Judge has usurped the jurisdiction which did not vest in him and the order under revision is beyond the jurisdiction of Principal Junior Civil Judge at Warangal. The learned Principal Junior Civil Judge is not competent to revoke the terms recorded before the Lok Adalat and he has acted against the judgments and settled principles laid by the Hon'ble Supreme Court and by this Court as the decree passed by Lok Adalat has attained finality.

8. The plaintiff has filed O.S.No.697 of 2006 on the file of the Principal Junior Civil Judge, Warangal and the said matter was referred to the Lok Adalat and an award was passed on 26.04.2006 before the Lok Adalat Bench Presided by the learned Principal Senior Civil Judge-cum-Secretary, DLSA, Warangal and Hon'ble Member, the terms of compromise were also recorded, the signatures of both the parties and their counsel were also obtained on the terms of compromise.

9. By this time the law is well settled that award of Lok Adalat cannot be revoked or challenged before the same Court. A Three Judges Bench of Hon'ble Supreme Court in **State of Punjab and another Vs. Jalour Singh and others**¹ held in para No.12 as under :

“12. It is true 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 to 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 directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As

¹ 2008 (2) SCC 660

already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits”.

10. The same principle is again reiterated by the Hon’ble Apex Court in **Bhargavi Constructions Vs. Kothakapu Muthyam Reddy** ² wherein in para 25 it is held as under :

“25) The question arose before this Court (Three Judge Bench) in the case of State of Punjab (supra) as to what is the remedy available to the person aggrieved of the award passed by the Lok Adalat under Section 20 of the Act. In that case, the award was passed by the Lok Adalat which had resulted in disposal of the appeal pending before the High Court relating to a claim case arising out of Motor Vehicle Act. One party to the appeal felt aggrieved of the Award and, therefore, questioned its legality and correctness by filing a writ petition under Article 226/227 of the Constitution of India. The High Court dismissed the writ petition holding it to be not maintainable. The aggrieved party, therefore, filed an appeal by way of special leave before this Court. This Court, after examining the scheme of the Act allowed the appeal and set aside the order of the High Court. This Court held that the High Court was not right in dismissing the writ petition as not

² 2018 (3) SCC 480

maintainable. It was held that the only remedy available with the aggrieved person was to challenge the award of the Lok Adalat by filing a writ petition under Article 226 or/and 227 of the Constitution of India in the High Court and that too on very limited grounds. The case was accordingly remanded to the High Court for deciding the writ petition filed by the aggrieved person on its merits in accordance with law”.

11. Thus, the aforesaid law laid down by the Hon’ble Supreme Court is binding on all the Courts in the country by virtue of mandate of Article 141 of the Constitution of India and it is made clear in no uncertain terms, that challenge to the award of Lok Adalat can be done only by filing a writ petition under Article 226 and/or Article 227 of the Constitution of India in the High Court and that too on very limited grounds.

12. Therefore, In the light of clear pronouncement of the law by the Hon’ble Supreme Court, I am of the considered opinion that the only remedy available to the aggrieved person, the plaintiff in O.S.No.697 of 2006 is to file a writ petition under Article 226 and/or 227 of the Constitution of India in the High Court challenging the award dated 26.04.2006 passed by the Lok Adalat. It is then for the writ Court to decide as to

whether any ground was made out by the writ petitioner for quashing the award and, if so, whether those grounds are sufficient for its quashing award dated 26.04.2006.

13. Therefore, in view of the above settled legal position, I am of the considered opinion that the learned Junior Civil Judge has committed grave jurisdictional error by setting aside the award passed by Lok Adalat on 26.04.2006 as per the terms of compromise by conducting a detailed enquiry in I.A.No.238 of 2007 for which he is not authorized. As such the order impugned is liable to be set aside in exercise of the jurisdiction under Article 227 of the Constitution of India.

14. In the result, this CRP is allowed and the order impugned dated 09.10.2015 in I.A.No.238 of 2007 in O.S.No.697 of 2006 on the file of the Principal Junior Civil Judge, Warangal is set aside. Consequently I.A.No.238 of 2007 in O.S.No.697 of 2006 stands dismissed and the award dated 26.04.2006, passed by the Lok Adalat as per the terms of compromise entered into between the parties, as annexed to the award, is restored. However, it is for the aggrieved person/the plaintiff in O.S.No.697 of 2006 to file a writ petition under Article 226 or

227 of the Constitution of India before the High Court challenging the said award passed by the Lok Adalat, if at all the plaintiff is aggrieved by the same and it is for the writ Court to decide as to whether any ground is made out by the writ petitioner for quashing the award.

15. In the circumstances of the case, the parties shall bear their respective costs. Miscellaneous petitions, if any, pending, in this CRP, shall stand closed.

A.VENKATESWHARA REDDY, J

27-04-2022
abb