

GAHC010039222024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1092/2024

SHAMIM AHMED
S/O- BABUL AHMED, CHALIHA NAGAR, TINSUKIA TOWN, P.O./P.S./DISTT.
TINSUKIA, PIN 786125

VERSUS

JUBIN SULTANA AHMED
W/O- SHEMIM AHMED PRESENTLY RESIDING AT ARYA PATH, LANE NO.1,
GOPINATH NAGAR, P.S. BHARALUMUKH, KAMRUP (M), GUWAHATI-
781006

Advocate for the Petitioner : MR. G K GUPTA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 01-03-2024

Heard Mr. G.K. Gupta, learned counsel for the petitioner.

2. The case projected in this writ petition, in brief, is as follows :- the petitioner and the respondent, the only respondent impleaded in this writ petition, were married on 07.03.1996 at Guwahati as per Islamic rites and rituals. Out of the said wedlock, a daughter, Ms. Simran Ahmed was born to them on 01.02.2000. The petitioner has stated that the respondent left the company of the petitioner on 23.11.2006 and since that day, the respondent had refused to return to her matrimonial home and all subsequent efforts to make her return proved

futile. The petitioner has stated that he had purchased a flat at Athgaon, Guwahati from his own income and had allowed the respondent to keep the rental income of the flat for her needs.

3. It is the case of the petitioner that the petitioner waited for about 11 [eleven] years expecting that the respondent would return and would start living again with the petitioner. But the respondent did not return to live with the petitioner. The petitioner has stated that due to non-return of the respondent, he had to re-marry in the year 2017 at Kolkata. Pursuant to petitioner's second marriage, the respondent instituted a maintenance proceedings under Section 125, Code of Criminal Procedure, 1973 before the learned Family Court, Kamrup [Metro] at Guwahati and the said application was registered and numbered as F.C. [Crl.] no. 702/2018 wherein the petitioner was the sole opposite party. In the course of the proceedings of F.C. [Crl.] no. 702/2018, the matter was referred to the Lok Adalat by the Court of learned Principal Judge, Family Court no. 1, Kamrup [Metro], Guwahati. Accordingly, the matter came up before the Lok Adalat on 09.03.2019.

4. Before the Lok Adalat held on 09.03.2019, both the petitioner and the respondent appeared and it was submitted by them that they had agreed for a compromise. In the Lok Adalat Order dated 09.03.2019, it had been recorded that the petitioner had agreed to transfer the property [Flat] situate at Athgaon, Guwahati in the name of his only daughter, Ms. Simran Ahmed. The Lok Adalat Order had also recorded that the petitioner had also agreed to transfer Rs. 20,000/- per month as monthly maintenance to the respondent and their daughter. It has been also recorded that the maintenance amount would be transferred to the account of the respondent as per the bank details given by the respondent.

5. The petitioner and the respondent also appeared before the learned Principal Judge, Family Court No. 1, Kamrup [metro] at Guwahati on 09.03.2019. By appearing before the learned Principal Judge, Family Court No. 1, Kamrup [Metro], Guwahati in person, the joint compromise petition entered into by the petitioner and the respondent through the Conciliator was presented before the learned Principal Judge, Family Court for perusal. The Order of the learned Principal Judge, Family Court dated 09.03.2019 has reflected that both

the petitioner and the respondent had submitted before the Court that they had amicably settled their disputes outside the Court and as per the settlement, the petitioner had agreed to transfer his landed property situate at Athgaon in Guwahati in the name of his daughter, Ms. Simran Ahmed and had also agreed to deposit a sum of Rs. 20,000/- per month to the respondent and their daughter directly in the bank account of the respondent and the respondent had accepted the proposal. The learned Principal Judge, Family Court had accordingly, directed the petitioner to pay maintenance @ Rs. 20,000/- per month to the petitioner and their daughter with effect from 09.03.2019. The case was accordingly disposed of on compromise.

6. As per Section 21 of the Legal Services Authorities Act, 1987, every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award. A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance and puts its seal of confirmation by making an award in terms of the compromise or settlement.

7. It is true that against an award of the Lok Adalat, a writ petition under Article 226 of the Constitution of India can be filed but such writ petition can be filed on very limited grounds, as has been held by a three-Judges Bench of the Hon'ble Supreme Court of India in *State of Punjab and another vs. Jalour Singh and others*, reported in [2008] 2 SSC 660. For instance, if a party alleges a ground like fraud then the maintainability/entertainability of the writ petition can be examined on the basis of the convincing materials placed on record.

8. In the case in hand, the petitioner had averred that the petitioner had purchased the flat of 750 square feet size way back in 2002 and the same was rented out in 2006. The petitioner had allowed the respondent to collect and retain the rental income from the flat and till date, it is the respondent, who has been enjoying the rental income of the flat. The petitioner has raised a grievance that after the respondent left his company, the respondent did not return to the matrimonial house. The petitioner has projected that it was after waiting for a long eleven years the petitioner had to tie the nuptial knot again for the second time in the year 2017. The petitioner has not raised any contention that the compromise arrived at in

the course of the maintenance proceedings, F.C. [Crl.] 702/2018 before the Lok Adalat was vitiated by any factor. The petition has averred that the petitioner was paying Rs. 20,000/- per month as maintenance regularly till he defaulted on and from February, 2020, as he lost his job in January, 2020. The petitioner has stated that after Covid-19 pandemic had subsided, the petitioner joined a new job in May, 2021 at Kolkata. The petitioner has contended that the respondent was barred from representing their daughter as the daughter was already a major at the time of filing of the compromise petition and therefore, the amount of Rs. 20,000/- as maintenance in favour of the respondent and their daughter was against the provision of law. The petitioner has also stated that he was under psychological pressure to arrive at a settlement before the Conciliator on 09.03.2019. Such contention cannot be countenanced in view of the fact that the petitioner had waited for about 4 [four] years since 2019 to raise such contention. The other grounds agitated by the petitioner in this writ petition do not fall within the ambit of an exceptional case under which a writ petition under Article 226 of the Constitution of India can be entertained against an award passed by the Lok Adalat and an order passed by the learned Family Court on the basis of such compromise arrived at the Lok Adalat. In such view of the matter, the writ petition is not entertained. Accordingly, the same is dismissed.

JUDGE

Comparing Assistant