

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

CASE No. W.P.No.1587 of 2015

Between:

M.N. Mahendra

... Petitioners

AND

M.N. Manjunatha and others
Respondents

...

DATE OF JUDGMENT PRONOUNCED: July 14, 2015.

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SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

1. Whether reporters of local newspapers
Yes/No
may be allowed to see the judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals?
Yes/No
3. Whether Their Lordships wish to see the
Yes/No
fair copy of the judgment?

ORDER: (Per R. Subhash Reddy, J)

In this writ petition, petitioner has questioned the Award

dated 06.12.2014 passed under Section 21 of the Legal Service Authorities Act, 1987, by the Lok Adalat.

The youngest brother of the petitioner and his sons, i.e., respondents 1 and 2 herein, have filed suit for partition and separate possession in respect of residential house bearing No.12-11-1176, situated in Boudhanagar, Warasiguda, Secunderabad. In the said suit, preliminary decree was passed on 19.12.2008 and Advocate-Commissioner was appointed. It is stated that, on receipt of the report of the Advocate-Commissioner, petitioner has filed his objections. In the meanwhile, respondents 1 and 2 herein filed E.P.No.4 of 2014 and at the request of the parties, the matter was referred to Lok Adalat. The Lok Adalat has passed the impugned Award in terms of the compromise arrived between the parties.

In this writ petition, the Award is mainly questioned on the ground that the same is passed contrary to the terms of the preliminary decree dated 19.12.2008 and also as a result of the collusion of the Advocate of the petitioner with respondent. The petitioner pleads that he is an illiterate, as such, he has signed papers without knowledge that the same are being used for Award to be passed by the Lok Adalat.

A detailed counter-affidavit is filed by the 1st respondent, wherein it is specifically denied that there is collusion as alleged by the petitioner. It is stated that the petitioner is educated, as such, it is not open for him to plead that without any knowledge of the contents of the Award he has signed the same.

From a perusal of the Award, it is clear that the parties as well as the Advocates on record are signatories to the same. The Award is questioned mainly on the ground that fraud is played on the petitioner and the same is passed as a result of the collusion of the Advocate for the petitioner with the respondents.

As per the provisions of the Legal Services Authorities Act, 1987, when consent Award is passed, the same is not appealable. Having regard to the various contentious issues raised by the petitioner in the writ petition, there are serious factual disputes with regard to the alleged collusion which resulted in passing of the Award. Therefore, it is not possible for this Court to resolve such disputes in this petition under Article 226 of the Constitution of India.

Further, in *Damera Raj Kumar v. Doli Srinivas*^[1], while dealing with a similar issue, a learned single Judge of this Court has held that plea of coercion or obtaining of award on threats predominantly was a question of fact and on such grounds it could not be said that when a settlement was arrived at by parties before Lok Adalat, same was vitiated. Referring to the decision of the Hon'ble Supreme Court in *P.T. Thomas v. Thomas Job* {(2005) 6 SCC 478}, it is further held therein as under:

“The main ground of attack is that the consent was obtained by coercion and threats and hence it is not free consent at all. In the decision referred (1) supra, the Apex Court while dealing with the nature of the binding effect of the award of the Lok Adalat is not the result of the contest on merits it is as equal and on part with a decree of compromise and will have

the same binding effect and be conclusive and it is final and permanent and is equivalent to a decree executable and is an ending to the litigation among the parties. It was also further held that a judgment by consent is as effective as estoppel between the parties as a judgment whereby the Court exercises its mind on a contested case and the Court's attempt should be to give life and enforceability to compromise award and not to defeat it on technical grounds."

In that view of the matter, if the petitioner is of the view that Award is passed as a result of collusion/fraud, it is open for him to proceed in accordance with law, but, in this writ petition, based on the material available, a conclusion cannot be drawn that such Award came to be passed as a result of collusion of the Advocate of the petitioner with the respondents. Further, it is to be noted that signatures of the parties are not in dispute.

For the foregoing reasons, we do not find any valid ground to interfere with the impugned Award.

Writ petition is accordingly dismissed. However, it is open to the petitioner to avail any other remedy open under law, questioning the validity of the Award. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the writ petition stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

July 14, 2015

MRR

[\[1\]](#) 2006 (5) ALD 694