

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

WRIT PETITION No.12122 of 2017

Between:

Dantam Uday Kumar

..Petitioner

and

P.Subramanyam and others

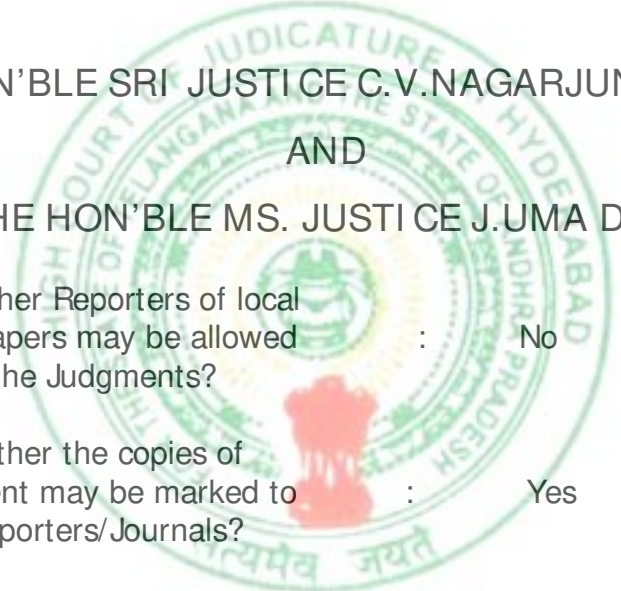
..Respondents

JUDGMENT PRONOUNCED ON: 23rd June, 2017

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE MS. JUSTICE J.UMA DEVI

- 
1. Whether Reporters of local Newspapers may be allowed to see the Judgments? : No
 2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes
 3. Whether their Ladyship/Lordship wish to see fair copy of the Judgment? : Yes

C.V.NAGARJUNA REDDY, J

J.UMA DEVI, J

*THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND

THE HON'BLE MS. JUSTICE J.UMA DEVI

+ WRIT PETITION No.12122 of 2017

% 23.06.2017

Dantam Uday Kumar

..Petitioner

Vs.

\$ P.Subramanyam and others

..Respondents

! Counsel for the petitioner: Mr.C.Subodh

Counsel for respondent No.1: Mr.P.Venugopala Rao,
for Mr.T.Janardhan Rao

Counsel for respondent Nos.4 and 5: Mr.J.Anil Kumar,
standing counsel for legal services authority

Counsel for other respondents: --

< Gist :

> Head Note:

? Cases referred:

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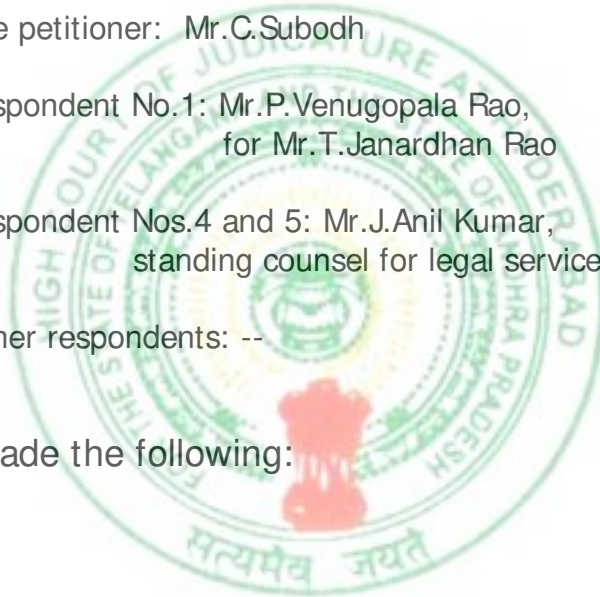
Counsel for the petitioner: Mr.C.Subodh

Counsel for respondent No.1: Mr.P.Venugopala Rao,
for Mr.T.Janardhan Rao

Counsel for respondent Nos.4 and 5: Mr.J.Anil Kumar,
standing counsel for legal services authority

Counsel for other respondents: --

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for a *mandamus* to set aside Lok Adalat award, dated 15.12.2012, in Pre-Litigation Case No.126 of 2012 on the file of the Senior Civil Judge, Kavali.

2. We have heard Mr.C.Subodh, learned counsel for the petitioner, Mr.P.Venugopala Rao, learned counsel representing Mr.T.Janardhan Rao, learned counsel for respondent No.1 and Mr.J.Anil Kumar, learned standing counsel for Legal Services Authority appearing for respondent Nos.4 and 5 and perused the record.

3. Respondent No.1 is the admitted owner of a house (hereinafter referred to as 'the subject property'). He has executed an agreement of sale on 20.01.2010 in favour of the petitioner by receiving a sum of Rs.50,000/- (Rupees fifty thousand only) as advance sale consideration. He has also received another sum of Rs.50,000/- on 10.02.2010. It is the pleaded case of respondent No.1 that the said agreement was entered into at the request of the father of the petitioner, who was a tenant of the subject property on a monthly rent of Rs.2,000/-, but, however, the agreement was obtained by the tenant in the name of his son, the petitioner.

4. As the disputes arose between respondent No.1 on the one side and the petitioner's father on the other, respondent No.1 has approached the Police with certain grievances, which, in turn, were referred to the Lok Adalat and the same was registered as Pre-Litigation Case No.126 of 2012. Before the Lok Adalat, the father of the petitioner and respondent No.1 entered into a compromise, the terms of which read as under:

“Both parties present before Lok Adalath bench. The following terms and conditions are came before bench for settlement:

Petitioner Sri P.Subrahmanyam who is the owner of the house B.No.10-46-60, Kacherimitta, Kavali present. On behalf of the respondent D.Vijay Prakash, D.Rajakumari was present. Respondents admitted they are tenants in the above house of petitioner from 20.01.2010. Petitioner presented the petition regarding to evict the house of petitioner. Present respondent request 3 months time for evicting. Further petitioner opposed for granting of 3 months as the respondents are postponing the evict the house from last 2 years. Respondent agreed to evict the house on 23.02.2013. The respondent agreed to pay as per the agreement Dt:26.11.2011 the respondent agreed to pay 12,00,000/- to the petitioner and 1,00,000/- access amount to the petitioner.

The petitioner admitted he received 1,00,000/- from the respondent on 20.01.2010. It is further submitted that the petitioner says he given the house rental purpose per month Rs.2,000/- from 20.01.2010 the same was admitted the respondent. On 20.01.2010 the respondent did not paid any rent to the petitioner. The petitioner and respondent agreed to deducted the monthly rent Rs.2,000/- from the advance amount 1,00,000/- which are received the petitioner on 20.01.2010.

The respondent agreed to pay the an amount of Rs.13,00,000/- on or before 23.02.2013 otherwise the respondent agreed to vacate the house and handed over the house to the petitioner without fail.

Hence award is passed today.”

Based on the above reproduced terms of the compromise, the Lok Adalat has passed the award in terms thereof.

5. The petitioner and his father have neither paid the balance sale consideration nor vacated the leased premises. This compelled respondent No.1 to file E.P.No.19 of 2013 for execution of the Lok Adalat award. The petitioner has filed E.A.No.13 of 2014 in the said E.P., wherein he has, *inter alia*, pleaded that as he was not a party to the Lok

Adalat award, the same does not bind him. He has also set up a separate agreement, dated 24.05.2010, and claimed that he has paid the balance sale consideration of Rs.11,00,000/-; that respondent No.1 has handed over physical possession of the property to him and that under the said agreement, respondent No.1 has agreed for the petitioner to continue the possession with all rights and also to execute the sale deed as and when demanded by the petitioner. The petitioner has, accordingly, pleaded that as he has become the lawful owner and also the possessor of the property, he cannot be evicted. He has also averred that he has filed O.S.No.33 of 2013 seeking specific performance of the said agreement of sale and that the said suit is pending. The execution Court has, however, dismissed the aforesaid E.A. by holding that as respondent No.1 has denied execution of agreement, dated 24.05.2010, the genuineness or otherwise of the same is required to be adjudicated in the suit itself and that if the petitioner succeeds in the said suit, he can recover possession of the same. Feeling aggrieved thereby, the petitioner has filed A.S.No.135 of 2016.

6. From the facts noted hereinbefore, it is evident that as regards agreement of sale, dated 20.01.2010, it is not in dispute that such agreement was executed by respondent No.1 in favour of the petitioner. Therefore, we agree with the plea of the petitioner that the Lok Adalat ought not to have accepted the offer made by the father of the petitioner to pay the balance sale consideration. If at all, it is only the petitioner who is not only liable but also competent to pay the balance sale consideration. To this extent, the award of Lok Adalat is not sustainable and the same is set aside.

7. As regards the award to the extent of delivery of possession, it is the pleaded case of respondent No.1 that the father of the petitioner was the tenant on a monthly rent of Rs.2,000/- and that it is only during the tenancy period that he has entered into agreement of sale, dated 20.01.2010, in the name of the petitioner for purchase of the property. Though the petitioner has pleaded that in pursuance of agreement of sale, dated 24.05.2010, possession was delivered, as evident from the impugned Lok Adalat award that his father who was the respondent before the Lok Adalat admitted that he was inducted into possession as tenant by respondent No.1 on 20.01.2010 on a monthly rent of Rs.2,000/-. Indeed, in the Lok Adalat award, the father of the petitioner has agreed to vacate the premises if he does not pay the sum of Rs.13 lakhs by 23.02.2013. Though we do not intend to express final opinion on the genuineness of agreement, dated 24.05.2010, its recitals coupled with the Lok Adalat award raise serious suspicion about its genuineness. If the petitioner has paid the entire balance sale consideration before 24.05.2010, it is wholly incomprehensible that his father would have agreed to pay the balance sale consideration on or before 23.02.2013 before Lok Adalat on 15.12.2012. Therefore, it is not safe to rely upon agreement, dated 24.05.2010, set up by the petitioner at this stage. Its genuineness or otherwise needs to be adjudicated in the suit based on the evidence that may be adduced by both the parties. Once this document is eschewed from consideration, we cannot accept the plea of the petitioner that he is in physical possession of the property on the strength of the said document. His father, who was evidently inducted into possession as a tenant on a monthly rent of Rs.2,000/-, has agreed to vacate the premises by 23.02.2013. As he was the tenant, to the extent of his

agreeing to vacate the premises, he was very much competent to enter into an agreement with respondent No.1. Therefore, the award of the Lok Adalat to the above extent is not liable to be interfered with.

8. For the aforementioned reasons, the Writ Petition is partly allowed only to the extent of the term pertaining to payment of balance sale consideration by the father of the petitioner to respondent No.1 in pursuance of agreement of sale, dated 20.01.2010. The award to the extent of undertaking of the petitioner's father to vacate the property is confirmed.

9. As a sequel to partly allowing the writ petition, W.P.M.P.Nos.15079 and 15080 of 2017 filed by the petitioner shall stand disposed of as infructuous.



C.V.NAGARJUNA REDDY, J

J.UMA DEVI, J

23rd June, 2017

Note: L.R.copies to be marked.

(B/o)

GHN