

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

Writ Petition Nos.121, 294 and 380 of 2017

DATED:21-08-2017

W.P. No.121 of 2017

Between:

Nellore Sujanamma ... Petitioner

And

Attipalli Nagi Reddy
and others ... Respondents

COUNSEL FOR THE PETITIONER : Mr. M. Subba Reddy

COUNSEL FOR RESPONDENT NOS.1 and 2 : Mr. G. Ramesh Babu
COUNSEL FOR RESPONDENT NO.3 : Mr. J. Anil Kumar

W.P. No.294 of 2017

Between:

Nellore Sujanamma ... Petitioner

And

Attipalli Sarala
and another ... Respondents

COUNSEL FOR THE PETITIONER : Mr. M. Subba Reddy

COUNSEL FOR RESPONDENT NO.1 : Mr. G. Ramesh Babu
COUNSEL FOR RESPONDENT NO.2 : Mr. J. Anil Kumar

W.P. No.380 of 2017

Between:

Nellore Sujanamma ... Petitioner

And

Attipalli Sudhavathi
and others ... Respondents

COUNSEL FOR THE PETITIONER : Mr. M. Subba Reddy

COUNSEL FOR RESPONDENT NOS.1 and 2 : Mr. G. Ramesh Babu
COUNSEL FOR RESPONDENT NO.3 : Mr. J. Anil Kumar

THE COURT MADE THE FOLLOWING:

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

These writ petitions are filed by the same petitioner feeling aggrieved by three separate Lok Adalat Awards in three separate pre-litigation cases.

2. For disposal of these writ petitions, the facts need not be discussed in detail. It will suffice to note that the petitioner alleged fraud against the private respondents in obtaining the impugned Lok Adalat Awards. Before approaching this Court by way of the present writ petitions, the petitioner filed three separate suits in the Court of the Principal District Judge, Nellore. These three suits were rejected at C.F. Stage by the District Court, mainly placing reliance upon the judgment in *Batchu Subba Lakshmi v. Sannidhi Srinivasulu*¹.

3. Under Section 21(1) of the Legal Services Authorities Act, 1987, award of the Lok Adalat shall be deemed to be a decree of civil court. Under sub-section (2) thereof, every award made by the 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. An identical issue came to be decided by a Division Bench of this Court in *Kothakapu Muthyam Reddy and others v. Bhargavi Constructions*². In that case, the suit was filed for a declaration that paragraph 18 of the compromise recorded in the suit by the Lok Adalat insofar as it related to a certain piece of land was concerned as nonest in law for having been obtained by fraud and collusion. Defendant Nos.31 and 32 in the said suit filed I.A. No.894 of 2010 for rejection of the plaint. The civil court has accordingly rejected the plaint on the ground that in view of the judgment in *Batchu Subba Lakshmi* (1 supra) a suit for declaration to set aside the Lok Adalat Award

¹ (2010) 1 ALD 277 (DB)

² 2015 (5) ALT 476

by a party to the earlier suit is not maintainable. After a detailed discussion, the Division Bench held as follows:

“The award passed by the Lok Adalat in a pending litigation, or in a pre-litigation case, is not, ordinarily, amenable to judicial review. But when an award of the Lok Adalat is 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 Society v. District Legal Services Authority (Lok Adalat), Vijayawada : 2012 (3) ALT 211 (DB)]. The challenge to the award of the Lok Adalat, in proceeding under Article 226 of the 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 v. Secretary, City Civil Court Legal Services Authority, Hyderabad : 2010 (3) ALT 289 (DB)]. The parties to the compromise or settlement, which is the basis for the award of a Lok Adalat, are entitled to challenge the award. 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 of Lok Adalat is not binding on him. There may, however, be extraordinary cases where a third party is meted with injustice at the behest of two or more conniving and colluding parties who may have obtained an award of the Lok Adalat by fraud or misrepresentation only to defeat the rights of a third party. In such cases, such a third party may maintain a Writ Petition. In such cases, there should be prima facie evidence of fraud or misrepresentation or collusion in obtaining the award of the Lok Adalat. Even if such allegations are made, and the question involves complicated questions of fact requiring voluminous evidence, the third party should be left to seek the remedy in a Civil Court, rather than invoking the extraordinary jurisdiction of the High Court under Article 226 of Constitution [Batchu Subba Lakshmi (1 supra)].

In Vadiga Amose v. Vadiga Anjaneyulu : 2014 (3) ALT 763 (DB), the petitioner, on coming to know of the filing of a suit and settlement of the same in the Lok Adalat, obtained a certified copy of the Lok Adalat award. He contended that respondents 1 to 4 had, together, colluded and initiated the civil suit by playing fraud against the Court; they had obtained the award behind his back suppressing the partition deed; and the Lok Adalat award was non-est in the eye of law, and it was liable to be set aside. It is in this context that the

Division Bench of this Court held that an award passed under Section 21 of the Act is deemed to be a decree of the Civil Court; a decree, obtained by playing fraud on the Court, can be challenged by a third party to the suit by filing a suit for declaration; and, in order to avoid multiplicity of proceedings and to put an end to the litigation once and for all, the best course open to the petitioner was to approach jurisdictional Civil Court for redressal. As the appellants herein, are parties to the award passed by the Lok Adalat, reliance placed by Sri K. Chidambaram, Learned Counsel, on Vadiga Amose (supra), to contend that the appellants cannot invoke the jurisdiction of this Court, under Article 226 of the Constitution of India, is misplaced.

The Court further held 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 Kumar (supra); Sri Durga Malleswari Educational Society (supra)]. In the absence of a statutory remedy of an appeal, an award can be subjected to challenge in writ proceedings invoking the extraordinary 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 extraordinary, 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 : AIR 1997 SC 1125), it cannot be circumscribed or negated by legislation - plenary or subordinate. Availability of the remedy, of invoking the extra-ordinary 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.”

The Court has in conclusion held as under:

“Fraud avoids all judicial acts, ecclesiastical or temporal. A judgment, decree or order obtained by playing fraud on the Court, Tribunal or authority is a nullity and non-est in the eye of the law. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings. [A.V. Papayya Sastry v. Govt. of A.P. : (2007) 4 SCC 221; S.P. Chengalvaraya Naidu v.

Jagannath (1994) 1 SCC 1]. Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated. Such an order cannot be held legal, valid or in consonance with the law. It is non-existent and non-est and cannot be allowed to stand. A judgment, decree or order obtained by fraud has to be treated as a nullity, whether by the court of first instance or by the final court. And it has to be treated as non est by every court, superior or inferior. [United India Insurance Co. Ltd. v. Rajendra Singh : (2000) 3 SCC 581]. In the case of fraud on a party to the suit or proceedings, the Court may direct the affected party to file a separate suit for setting aside the decree obtained by fraud. [Indian Bank v. Satyam Fibres (India) (P) Ltd. : (1996) 5 SCC 550].

An award passed by the Lok Adalat is, under Section 21(1) of the Act, deemed to be a decree of a Civil Court. If a Civil Suit can be filed to set aside a decree obtained by fraud, we see no reason why a Civil Suit cannot be filed to set aside an award of the Lok Adalat, if such an award has been obtained by fraud. As the appellant has specifically pleaded, in the suit filed by him, that the award of the Lok Adalat is vitiated by fraud, the Court below erred in rejecting his plaint, under Order 7 Rule 11 CPC, on the ground that a civil suit does not lie against an award passed by the Lok Adalat. The point for consideration is answered holding that the remedy of a Civil Suit is not barred where the jurisdiction of the Civil Court is invoked by a party to the compromise, or the award of Lok Adalat, alleging that the said compromise or award was obtained by misrepresentation or fraud."

4. A Division Bench of this Court to which one of us (Justice C.V. Nagarjuna Reddy) is a party in *Chatti Hanumantha Rao v. The Chairman, Mandal Legal Services Authority (Lok Adalat), Prathipadu* (W.P. No.18780 of 0217, dt.15.06.2017), held as under:

"The questions whether the person who allegedly signed the compromise petition and the Lok Adalat award was duly authorised by the petitioner or not, or whether the Lok Adalat award is binding on the petitioner or not, fall within the realm of the disputed questions of fact. Such disputes cannot be resolved in the Writ Petition by this Court in exercise of its writ jurisdiction. Though under the Legal Services Authority Act, 1987, the Lok Adalat awards are final, if such awards are obtained by fraud, the civil Court's jurisdiction is not barred. Therefore, if the Lok Adalat award was obtained by playing fraud on the petitioner, he is entitled to oppose the Execution Petition besides availing any other remedy available to him seeking invalidation of award."

5. In view of the judgments rendered subsequent to *Batchu Subba Lakshmi* (1 supra), on which the District Court has placed reliance, we are of the opinion that the view taken by the District Court is not a correct view and accordingly the rejection orders are set aside. The Principal District Judge, Nellore, is directed to register the suits and decide the same on merits.

The writ petitions are accordingly allowed.

C.V. NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

21-8-2017

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