

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

AND

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No.1380 of 2017

28.08.2017

Between:

Koka Venkateswara Rao and others

.. Petitioners

and

Dubisetty Bhagyalakshmi and others

.. Respondents

Counsel for the petitioners : Mr. P.Gangarami Reddy, Senior Counsel

Counsel for respondent Nos.1, 3 to 5 : Mr. N. Raghava Rao

Counsel for respondent Nos.6 to 8 : Mr. P. Sridhar Reddy

Counsel for respondent No.2 : Mr. N. Siva Reddy

Counsel for respondent No.13 : Mr. Jukanti Anil Kumar

Counsel for respondent Nos.9 to 12 : None appeared

The Court made the following:



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

Plaintiff Nos.3, 4, 6 and 7 in O.S.No.137 of 2004 on the file of the Principal Senior Civil Judge, Nellore, filed this writ petition feeling aggrieved by Lok Adalat award, dated 29.01.2010, passed in the said suit.

2. The petitioners' case, in brief, is that they are the brothers, sister and mother of respondent Nos.11 and 12/plaintiff Nos.1 and 2. While admitting that they have executed General Power of Attorney (G.P.A.) in favour of respondent No.12/plaintiff No.2, they have, however, stated that the G.P.A. holder has played fraud on them in collusion with respondent Nos.6 to 8/defendant Nos.8 to 10 and one Srinivasa Rao and obtained the impugned Lok Adalat award behind their back. It is their further pleaded case that in the year 2013, they have filed an application before the Court below for setting aside the said Lok Adalat award and that the same stood dismissed in the year 2016.

3. Mr. P. Sridhar Reddy and Mr. N. Raghava Rao, the learned counsel appearing for the respective respondents, have opposed the writ petition on many grounds including that of laches.

4. We are not inclined to adjudicate this writ petition on merits for the reason that the alleged ground of fraud can be adjudicated only in a properly constituted suit with reference to the oral and documentary evidence that may be adduced by both the parties. This Court has been consistently holding that if a party to the Lok Adalat award is aggrieved thereof on the plea that the same was passed in favour of a party, who played fraud on the former, such aggrieved party is entitled to approach the competent civil Court by instituting a substantive suit. (See Kothakapu Muthyam Reddy vs. Bhargavi

Constructions¹, Nellore Sujanamma vs. Attipalli Nagi Reddy²). In view of this settled legal position, we hold that the remedy of filing writ petition is not appropriate and the petitioners are relegated to civil Court for availing the remedy of a civil suit. If such a suit is filed, the respondents are entitled to raise all the legally permissible grounds to resist the same including the one relating to the limitation.

5. Subject to the liberty given to the petitioners as above, the Writ Petition is dismissed.

6. As a sequel to dismissal of the writ petition, W.P.M.P.No.1562 of 2016 filed by the petitioners for interim relief shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

28th August, 2017
GHN

¹ 2015(6) ALD 1 = 2015(5) ALT 476

² Common order in W.P.Nos.121, 294 and 380 of 2017, dated 21-08-2017