

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.8595 of 2016

ORDER:

The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the communication dated 03.10.2015, addressed by the third respondent (District Education Officer, YSR District, Kadapa) to the fourth respondent (Mandal Education Officer, Mandal Parishad, Kadapa, YSR District) requesting to attach the salary of the petitioner under the purported compliance of the Lok-Adalath Award, Kurnool Bench, dated 13.12.2012 as illegal, arbitrary and contrary to Section 60 (1) of the C.P.C.; and consequently to set aside the same.

2. The averments in the affidavit filed in support of the writ petition would show that disputes which were pending between the petitioner and the fifth respondent with regard to payment of money, were settled before the Lok Adalath Bench, Kurnool, and accordingly an award came to be passed on 13.12.2012, recording the terms of compromise. As per the terms of compromise, the petitioner and 5th respondent herein entered into a compromise for an amount of Rs.7,50,000/- and the petitioner herein agreed to pay an amount of Rs.10,800/- every month by way of deduction from his salary and he further admitted for deduction of the said amount and send of the same to the SB A/c No.32124628223, State Bank of India, Kurnool, in monthly instalments, commencing from January, 2013. Thereafter, the fifth respondent approached the third respondent for attachment of salary of the petitioner @ Rs.10,800/- and for send of the same to his account. Accordingly, the said amount was deducted from the salary of the petitioner for nearly 24 months continuously. Subsequently, a letter dated 03.10.2015 came to be issued by the third respondent to the fourth respondent, for attachment of the salary of the petitioner for further period in view of the

transfer of the petitioner to the said place. At that point of time, the present writ petition came to be filed questioning the said letter, as contrary to the provisions of Section 60 (i) of the Code of Civil Procedure.

3. The main ground urged by the learned counsel for the petitioner is that the amount of Rs.10,800/- was deducted from the salary of the petitioner continuously for a period of 24 months and the subsequent communication for attachment of salary for a period of 70 months is contrary to Section 60 (1) of C.P.C. In support of his plea, he relied upon *Shaik Noorjahan Vs. M.Rajeswari*¹ wherein this Court while referring to Section 60 (1) of C.P.C. held that after completion of 24 months of attachment, again attachment of salary for second time on the basis of very same decree, is not permissible.

4. Learned counsel for the respondents opposed the same. He placed reliance on the judgment of this Court reported in *P.T.Thomas Vs. Thomas Job*² and *Board of Trustees of the Port of Visakhapatnam Vs. Presiding Officer, Permanent, Lok Adalat-cum-Secretary, District Legal Services Authority, Visakhapatnam and another*³ to show that writ is not maintainable.

5. In P.T.Thomas case (2 supra), the Apex Court held as under:

“20. The Lok Adalat shall proceed and dispose the cases and arrive at a compromise or settlement by following legal principles, equity and natural justice. Ultimately, the Lok Adalat pass an award, and every such award shall be deemed to be a decree of the civil court or as the case may be, which is final.

21. The Lok Adalat will pass the award with the consent of the parties, therefore there is no need either to reconsider or review the matter again and again, as the award passed by the Lok Adalat shall

¹ 2010 (4) ALD 548

² (2005) 6 SCC 478

³ 2000 (5) ALT 577

be final. Even as under Section 96(3) CPC “no appeal shall lie from a decree passed by the Court with the consent of parties”. The award of the Lok Adalat is an order by the Lok Adalat with the consent of the parties, and it shall be deemed to be a decree of the civil court, therefore an appeal shall not lie from the award of the Lok Adalat as under Section 96(3) CPC.

...

23. The High Court of A.P. held that, in Board of Trustees of the Port of Visakhapatnam Vs. Presiding Officer, Permanent, Lok Adalat-cum-Secretary, District Legal Services Authority, the award is enforceable as a decree and it is final. On all fours, the endeavor is only to see that the disputes are narrowed down and make the final settlement so that the parties are not again driven to further litigation or any dispute. Though the award of a Lok Adalat is not a result of a contest on merits just as a regular suit by a Court in a regular trial is, however, it is as equal and on a par with a decree on compromise and will have the same binding effect and be conclusive. Just as the decree passed on compromise cannot be challenged in a regular appeal, the award of the Lok Adalat, being akin to the same, cannot be challenged by any of the regular remedies available under law, including by invoking Article 226 of the Constitution and challenging the correctness of the award, on any ground. Judicial review cannot be invoked in such awards, especially on the grounds as were raised in the revision petition.

6. It is to be noted that though an objection has been raised by the learned counsel for the respondents with regard to maintainability of the writ petition stating that no writ would lie questioning the award passed by Lok Adalat, it is to be noted that the present writ petition is not filed questioning the award of the Lok Adalat. On the other hand, the present writ petition is filed questioning the impugned letter dated 08.10.2015 addressed by the third respondent to the fourth respondent requesting him to attach the salary of the petitioner, under the purported compliance of award passed by the Lok Adalat. A reading of the material placed before this Court would show that the petitioner and the fifth respondent entered into a compromise for an amount of Rs.7,50,000/- and the petitioner herein agreed to pay an amount of Rs.10,800/- per month, to be deducted from his salary and the same may be

directed to be sent to the account of fifth respondent. As stated earlier, the proceedings which are challenged before this Court is an inter-departmental communication between the third and fourth respondents, wherein the third respondent requested the fourth respondent to attach the salary of the petitioner, in view of his transfer to the said place. The petitioner herein never questioned the award passed by the Lok Adalat. Therefore, the argument of the learned counsel for the petitioner that the respondent has no jurisdiction to deduct the said amount from his salary, as agreed upon by him, more so when the award has been put in force for a period of 24 months, cannot be accepted. If really the petitioner was aggrieved by the award, he should have raised his objection initially by questioning the award, if it is permissible to do so. Having accepted the award and having allowed the authorities to deduct from his salary, he cannot now question the internal communication between the officers, as violative of Section 60 of C.P.C.

7. Hence, this Court is of the view that when an award passed by the Lok Adalat is still in force and remained unchallenged, communication between the third and fourth respondents for deduction of amount from the salary of the petitioner, pursuant to his transfer to the fourth respondent's place, cannot be found fault with.

8. In view of the above, I see no merits to entertain the writ petition and the same is accordingly dismissed. There shall be no order as to costs.

9. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C. PRAVEEN KUMAR

15.03.2017
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