

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

WRIT PETITION No. 349 OF 2016

Between:

Kavampalli Kannamma @ Kanakamma ... Petitioner

AND

The State of Andhra Pradesh,
Law Department, A.P. Secretariat,
Secretariat Buildings, Hyderabad,
Rep. by Law Secretary, and others ... Respondents

Date of Order Pronounced : 16-08-2017

SUBMITTED FOR APPROVAL:

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

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

1. Whether Reporters of Local newspapers
May be allowed to see the order? Yes/No
2. Whether the copy of order may
be marked to Law Reporters/Journals? Yes/No
3. Whether Their Lordships wish to see the
Fair copy of the order? Yes/No

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

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

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

+WRIT PETITION No. 349 OF 2016

%Dated: 16-08-2017

#Kavampalli Kannamma @ Kanakamma,

W/o late Nagaraja, 40 years, Housewife,

R/o Annemmagaripalli Village,

Peddavupparapalli Post,

Somala Mandal, Chittor District

... Petitioner

VERSUS

\$The State of Andhra Pradesh,

Law Department, A.P. Secretariat,

Secretariat Buildings, Hyderabad,

Rep. by Law Secretary, and others

... Respondents

!Counsel for the petitioner : Sri B.Sudhakar Reddy

**^Counsel for respondent Nos. 1 to 3 : G.P. for Law & Legislative
Affairs (A.P.)**

^Counsel for respondent Nos. 4 to 6 : Stm. S.Parineeta

<GIST :

>HEAD NOTE :

?Cases referred :

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

W.P.No. 349 OF 2016

DATED 16TH AUGUST, 2017

Between:

Kavampalli Kannamma @ Kanakamma ... Petitioner

AND

The State of Andhra Pradesh,
Law Department, A.P. Secretariat,
Secretariat Buildings, Hyderabad,
Rep. by Law Secretary, and others ... Respondents

Counsel for the petitioner : Sri B.Sudhakar Reddy

Counsel for respondent Nos. 1 to 3 : G.P. for Law & Legislative Affairs
(A.P.)

Counsel for respondent Nos. 4 to 6 : Smt. S.Parineeta

THE COURT MADE THE FOLLOWING

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

This Writ Petition is filed for issue of *certiorari* to quash award dated 15-02-2014 in P.L.P.No. 1 of 2014 on the file of respondent No. 3.

2. We have heard Smt. B.Neeraja S.Reddy, learned counsel for the petitioner, and Sri V.R.Reddy Kovvuri, learned counsel for respondent Nos. 4 to 6.

3. There was a civil litigation pending between the petitioner on one side and respondent Nos. 4 to 6 on the other in respect of certain land. At that stage, respondent Nos. 4 to 6 filed P.L.P.No. 1 of 2014 before respondent No. 3. Based on the said petition, an award was passed by respondent No. 3 – Legal Services Authority. It is stated therein that both parties have agreed for the terms of compromise and accordingly an award was passed restraining the petitioner by way of permanent injunction from interfering with the peaceful possession and enjoyment of respondent Nos. 4 to 6 in respect of the petition schedule property. A perusal of the award shows that it contains the purported left thumb impression of the petitioner. The terms of compromise based on which the award was passed also contains the purported left thumb impression of the petitioner.

3. Feeling aggrieved by the said Lok Adalat Award, the petitioner filed the present Writ Petition nearly two years after passing of the award. The case of the petitioner is that respondent Nos. 4 to 6 have played fraud on her by obtaining Lok Adalat Award behind her back and without her knowledge. This Writ Petition was heard more than once. When this Court has expressed its serious reservation about the appropriateness of the remedy chosen by the petitioner as seriously disputed questions of fact were raised and expressed its

view that it would be more appropriate if the petitioner avails the common law remedy of civil suit, learned counsel for the petitioner on instructions submitted that, as her client has taken the stand that the thumb impressions on the terms of compromise and the award do not relate to her, the same may be referred to a fingerprint expert. In the light of the said submission, this Court has asked learned counsel for the petitioner as to whether her client is prepared to accept the opinion that may be given by fingerprint expert in the event the disputed thumb impressions are sent to him for his opinion, she has stated that her client is prepared to accept the same without questioning the expert's opinion. She has also agreed for filing an affidavit to that effect by her client. Therefore, an order was passed on 30-06-2017 directing the petitioner to file an affidavit to the above effect.

4. As undertaken, the petitioner filed her sworn affidavit, wherein she has stated as under:

"I, Kavampalli Kannamma @ Kanakamma, W/o Late Nagaraja, aged 42 years, Housewife, R/o Chinnarikunta Village, Pedda Panjani Mandal, Chittoor District, Having temporarily come down to Hyderabad do hereby solemnly and sincerely affirm and state as follows:

- 1. I am the petitioner herein as such I am well acquainted with the facts of the case.*
- 2. I submit that as per the orders of this Hon'ble Court dated 30-06-2017, my fingerprints are being sent to expert for opinion after comparing them with that of the fingerprints on the award passed in P.L.P.No. 1 of 2014 dated 15-02-2014.*
- 3. I submit that I will not dispute the report of the fingerprint expert, in future and I will abide by the opinion of the Handwriting expert."*

Thereafter, this Court has referred to the disputed thumb impressions along with the admitted thumb impressions to a renowned fingerprint lab called "Truth Labs", Hyderabad, which is running forensic services. On receipt of report dated 18-07-2017 by the Registry, the same is placed before us, wherein the following opinion has been rendered:

*"The disputed left thumb impressions marked Q1 against the name Kalimipalli Kannamma on the reverse of the "Award under Section 21 of Legal Services Authorities Act, 1987" and Q2 against the name Kannamma @ Kanakamma on the reverse of "Terms of Compromise" of the Lok Adalat Bench, Punganur dated 15-02-2014 in PLP No. 1/2014, have been compared and found **identical** with the admitted left thumb impressions marked 'S1 to S6' of Kavampalli Kannamma @ Kanakamma, obtained on a plaint sheet of paper in open Court."*

The aforementioned opinion was based on the following parameters:

"Points of identity:

Point No. 1 is a ridge termination.

Point No. 2 is a ridge bifurcation above and left to Point No. 1 with one ridge intervening.

Point No. 3 is a ridge termination above and right to Point No. 2 with six ridges intervening.

Point No. 4 is a ridge termination above and left Point No. 3 with one ridge intervening.

Point No. 5 is a ridge termination above and right to Point No. 4 with four ridges intervening.

Point No. 6 is a ridge termination above and left to Point No. 5 with no ridges intervening.

Point No. 7 is a short ridge above and right to Point No. 6 with four ridges intervening.

Point No. 8 is a ridge termination left to Point No. 7 with one ridge intervening."

In conclusion, based on the aforementioned parameters, the expert has opined as under:

*"All the above mentioned eight ridge characteristics are collectively occurring in their same nature and relative positions in the disputed left thumb impressions marked 'Q1. Q2.' And in the admitted left thumb impressions marked 'S1'. Hence, I am of the opinion that the thumb impressions marked 'Q1, Q2 and S1' are **Identical** with one another and are made by the same finger of the same person."*

After receipt of opinion, the case was listed on 09-08-2017. On that day, the learned counsel for the petitioner while stating that in view of the undertaking given by her client, she cannot question the opinion of the expert, however, requested for a direction to the Registry to furnish a copy of the report of the expert to enable her to go through the same and consult her client. Accordingly, her request was accepted and the case is adjourned to today. Today at the hearing, learned counsel for the petitioner submitted that on the advice given by her, her client is willing to withdraw the Writ Petition without prejudice to her right to approach civil Court for appropriate relief. When we declined her request for permission to withdraw, she requested for an adjournment for producing a letter from her client. Even this request, we have declined for the following reasons. The petitioner has come before this Court with a specific plea that she has not put her thumb impressions either on the petition or on the award. She has specifically pleaded in para No. 7.1 of the affidavit as under:

"The impugned Award was passed even when I have not put my thumb impression in the petition. Thus the Award passed by the Lok Adalat in a Pre-Litigation Case without obtaining my thumb impression on the petition, is liable to be declared as not valid in Law. The 3rd respondent in

a routine manner and in a mechanical matter had passed the Award. Thus the award is got passed by the respondents 4 to 6 by playing fraud and suppressing the fact of passing of a Decree, which is confirmed against the respondents. I have not put my thumb impression on the Award, in fact the thumb impression of some one is taken on the award to show that I have agreed for passing of the Award. The name is mentioned as Kalimipalli Kanamma, which is not my name. Thus the Award, passed by the 3rd respondent is contrary to the procedure laid down in Sec. 22 D of the Act, as the Award is passed contrary to the principles of natural justice, objectivity, fair play, equity and other principles of justice." (Emphasis is ours)

As noted hereinbefore, when we tried to convince learned counsel for the petitioner that a writ is not an appropriate remedy and that the petitioner may be advised to go to civil Court, learned counsel for the petitioner has persuaded us to send the disputed thumb impressions for an expert's opinion upon filing an affidavit that she will not dispute the opinion of the expert.

5. Today at the hearing, learned counsel for the petitioner submitted that respondent Nos. 4 to 6 have obtained her thumb impressions and misused the same for the purpose of obtaining Lok Adalat Award behind her back fraudulently. As could be seen from the above extracted averments, her specific plea was that she has not put her thumb impressions either on the petition or on the award. Contrary to this specific plea, learned counsel for the petitioner has come out with a completely contradictory version that the thumb impressions of the petitioner earlier taken by respondent Nos. 4 to 6 have been misused. The law is settled that a party cannot be permitted to approbate and reprobate. Having taken a chance before this Court, the petitioner cannot be allowed to go back by raising a new and contradictory plea and initiate a fresh round of

litigation before the civil Court. The petitioner has not come to this Court with clean hands and indulged in abuse of process of Court.

6. For the aforementioned reasons, the Writ Petition is dismissed with costs of Rs.10,000/- (Rupees ten thousand only) payable to respondent Nos. 4 to 6.

7. As a sequel to dismissal of the Writ Petition, W.P.M.P.No. 441 of 2016 and W.V.M.P.No. 4670 of 2016 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 16-08-2017.

Note:

L.R. Copies to be marked.

B/O

JSK

