

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.06.2018**

CORAM:

THE HONOURABLE MR.**JUSTICE P.VELMURUGAN**

C.R.P.(PD) No.1759 of 2018

M.M.Kandasamy ... Petitioner

Vs.

K.Jegannathan ...Respondent

Civil Revision Petition has been filed under Article 227 of Constitution of India against the fair and decreetal order dated 03.07.2017 in I.A.No.138 of 2016 in O.S.No.195 of 2014 on the file of the III Additional District Judge, Salem.

For petitioner : Mr.S.Kalyanaraman

ORDER

This civil revision petition has been filed against the order dated 03.07.2017 made in I.A.No.138 of 2016 in O.S.No.195 of 2014 by the learned III Additional District Judge, Salem.

2 According to the learned counsel for the revision petitioner/father, the respondent/son herein filed suit in O.S.No.195 of 2014 for partition and pending suit, the matter was referred to Lok Adalat, since the parties filed a compromise memo, in which, larger

extent of land was allotted to the respondent/plaintiff and lesser extent of land only allotted to the petitioner/father herein, which was also agreed by the petitioner/father. Based on the compromise memo, an award dated 06.12.2014 was passed by the Lok Adalat. The petitioner/father came to know that as per the award dated 06.12.2014, the petitioner is entitled only for life interest on the properties allotted to him. Hence he filed application in I.A.No.138 of 2016 seeking to set aside the order dated 06.12.2014 passed by the Lok Adalat. The trial Court dismissed the application by order dated 03.07.2017.

3 Aggrieved against the same, the petitioner/father is before this Court with the present civil revision petition.

4 The learned counsel appearing for the revision petitioner would submit that the revision petitioner is innocent and illiterate father. The revision petitioner did not know that as per award dated 06.12.2014, he is only entitled for life interest of the properties allotted to him. When he came to know about the fact, immediately he filed application before the trial Court seeking to set aside the same. The learned counsel placed his reliance on the judgment of the Hon'ble Supreme Court reported in **2017 (5) CTC 775 (Bharvagi**

Constructions & another vs. Kothakapu Muthyam Reddy & Others), wherein, liberty has been granted to challenge the legality and correctness of the Award passed by the Lok Adalat by filing writ petition under Article 226 or/and 227 of the Constitution of India.

5 Heard the learned counsel appearing for the revision petitioner and perused the materials available on record.

6 It is not in dispute that as per compromise memo filed by both the petitioner and respondent in O.S.No.195 of 2014, award dated 06.12.2014 came to be passed. The revision petitioner has also signed in the above said award in the presence of the respondent and their counsel.

7 This Court is of the view that, without consent of either of the parties, Lok Adalat cannot pass any orders. There is no allegation that without consent or knowledge of the petitioner the award was passed. The allegations leveled against the respondent herein in the revision petition requires detailed enquiry, which cannot be done in the revision proceedings under the Article 227 of the Constitution of India. This Court perused the decisions referred to by the learned counsel for the petitioner, which reveal that the revision petitioner has remedy by filing writ petition under Article 226 of the Constitution of India.

P.VELMURUGAN, J.,

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8 This Court cannot exercise its power under Article 227 of Constitution of India, as there is no illegality committed by the members of Lok Adalat. In the absence of the same, this civil revision petition cannot be entertained.

9 In the result, the civil revision petition is dismissed. No costs.

19.06.2018

Index:Yes/No

Internet : Yes/No

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To

The III Additional District Judge,
Salem.

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