

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

WRIT PETITION No.23099 of 2018
&
CIVIL REVISION PETITION No.4285 of 2018

DATE: 27-09-2018

W.P.No.23099 of 2018

Between:

Tadavarthi Srikanth Ram Mohan

..... PETITIONER

AND

The lok Adalat Bench, Peddapalli
And 12 others

.....RESPONDENTS

COUNSEL FOR THE PETITIONER: Sri ALLADI RAVINDER

COUNSEL FOR
RESPONDENTS Nos.2, 10 to 13 : Sri RAMPRASAD PATHIPAKA

COUNSEL FOR RESPONDENTS 4, 5, 6, 7 & 9: NONE APPEARED

CRP.No.4285 of 2018

Between:

Tadavarthi Srikanth Ram Mohan

..... PETITIONER

AND

Maddikunta Anjaiah and 11 others

.....RESPONDENTS

COUNSEL FOR THE PETITIONER: Sri ALLADI RAVINDER

COUNSEL FOR RESPONDENT No.1: Sri J.ANIL KUMAR

COUNSEL FOR
RESPONDENTS Nos.9 to 12 : Sri RAMPRASAD PATHIPAKA

COUNSEL FOR RESPONDENTS 2, 3 to 6 & 8: NONE APPEARED

THE COURT MADE THE FOLLOWING:

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

WRIT PETITION No.23099 of 2018
&
CIVIL REVISION PETITION No.4285 of 2018

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

Since the parties as well as the subject matter in both the cases are common, these cases are heard and being disposed of together.

2. For convenience, the parties are hereinafter referred to as they are arrayed in the Writ Petition.

3. Respondents Nos.4 to 6 have filed O.S.No.18 of 2016 on the file of the Junior Civil Judge at Sultanabad for perpetual injunction restraining respondents Nos.1 and 2 from interfering with their possession of the suit schedule properties. The said suit was decreed by judgment dated 18.11.2010 granting permanent injunction against respondents Nos.2 and 3. Assailing the said judgment, respondents Nos.2 and 3 filed A.S.No.10 of 2010 in the court of the Senior Civil Judge at Peddapalli. During the pendency of the appeal, respondents No.4 executed an agreement of sale-cum-registered General Power of Attorney on 03.05.2012 in favour of one Asari Ramesh. The said General Power of Attorney executed a registered sale deed on 20.12.2016 in favour of the petitioner conveying the suit schedule property. On coming to know about the proposed settlement between respondents Nos.2 and 3 on one side and respondents Nos.4 to 6 and 10 to 13 on the other side, the petitioner filed I.A.No.457 of 2018 seeking his impleadment in the appeal. The said application was dismissed by the lower court by its order dated

10.04.2018. On the same day, the lower court has referred the dispute to Lok Adalat, presided over by the same Presiding Officer, who dismissed I.A.No.457 of 2018. On 16.04.2018, the Lok Adalat has passed the award on the basis of purported settlement between respondent No.2 and the legal representatives of respondent No.3 (since died) on the one side and respondents Nos.4 to 6 on the other side. Assailing the said award, the petitioner filed W.P.No.23098 of 2018. He has also filed CRP No.4285 of 2018 questioning the order, dated 10.04.2018 in I.A.No.457 of 2018 in A.S.No.10 of 2010.

4. As the outcome of W.P.No.23099 of 2018 depends upon the result of CRP No.4285 of 2018, we would like to first deal with the CRP.

5. The fact that the petitioner has purchased the suit schedule property from the General Power of Attorney of respondents Nos.3 to 5 is not in serious dispute. On the contrary, in its order passed in I.A.No.No.457 of 2018 in A.S.No.10 of 2010, the court below has observed that the grievance of the petitioner is genuine. However, while so holding, the court below has made a rather strange approach by giving out reasons, which in our opinion, are not sustainable. While there could be no doubt, that having purchased the property *pendente lite*, the petitioner is bound by the judgment in the appeal as observed by the court below, the short issue that needed to be considered by it was whether the petitioner, who stepped into the shoes of respondents Nos.4 to 6, is entitled to be impleaded, so that he would oppose the appeal filed by the unsuccessful defendants. When the petitioner has admittedly acquired the interest which respondents Nos.4 to 6/plaintiffs had in the property, it is in the fitness of things that he should be permitted to come

on record, more so, when respondents Nos.4 to 6 were trying to barter away the interest of the petitioner, who claims to be the purchaser for valuable consideration. Instead of considering the application of the petitioner from the above perspective, the court below has made a hyper technical approach and observed that Order-I Rule-10 CPC which is applicable to the suit is not applicable to the appeal. Appeal being continuation of the suit, it is implied that whatever procedure that is applicable to suits would equally be applicable to appeal. The court below, instead of allowing the petitioner to come on record and adjudicating the case on merits, needlessly referred the Lok Adalat award that was contemplated to be passed after dismissal of I.A.No.457/2018 and went on to make an observation that the Lok Adalat decree that may be passed by the court would not be binding on the petitioner. Indeed, there is no warrant for the lower court to make such an observation because by that time no such Lok Adalat award was passed. This shows pre-conceived mind of the lower court to first reject the application filed by the petitioner for impleadment and then to pass Lok Adalat award.

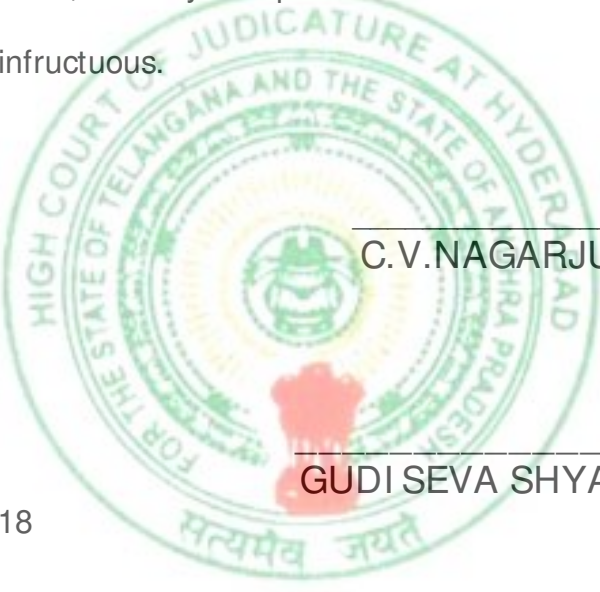
6. Having regard to the fact that the petitioner claims to have purchased the suit schedule property from the General Power of Attorney of respondents Nos.4 to 6, when the said respondents having lost their interests and were trying to surrender their rights in favour of respondents Nos.2 and 3, it would be a travesty of justice, if the petitioner is not allowed to come on record and contest the appeal in the place of respondents Nos.4 to 6.

7. For the aforementioned reasons, the order under revision is set aside. I.A.No.457 of 2018 is allowed.

8. As a consequence of allowing I.A.No.457/2018, the Lok Adalat Award passed without the consent of the petitioner cannot be sustained. Accordingly, the impugned Lok Adalat Award is set aside, and A.S.No.10/2010 is restored to its file. The Court below is directed to dispose of the appeal on merits after hearing all the parties, including the petitioner.

9. In the result, both the writ petition and the civil revision petition are allowed. No order as to costs.

10. As a sequel to disposal of both the cases, I.A.No.1 of 2018 in W.P.No.23099/2018, filed by the petitioner for interim relief, shall stand disposed of as infructuous.



C.V.NAGARJUNA REDDY,J

GUDI SEVA SHYAM PRASAD,J

Date: 27.09.2018
Dsr