

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

W.P.No.19848 of 2018

Date:27.9.2018

Between.

Muppa Aruna Kumari,
W/o Late M.Ravindranath

....Petitioner

And.

Lok Adalat Bench at Suryapet,
Suryapet District and eight others.

....Respondents

Counsel for the petitioner: Mr. A.P.Reddy

Counsel for respondent No.1: Mr. J.Anil Kumar

Counsel for respondent No.2: Mr. Krupachand Gogineni

Counsel for respondent Nos.5 & 6: Mr. D.V.Sudhir Kumar

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 17.9.2014, passed by respondent No.1-Lok Adalat in Lok Adalat Case No.248 of 2013 in O.S.No.89 of 2011 on the file of the Senior Civil Judge, Suryapet.

We have heard Mr. A.P.Reddy, the learned counsel for the petitioner, Mr. J.Anil Kumar, the learned Standing Counsel for the Andhra Pradesh Legal Services Authority, Mr. Krupachand Gogineni, the learned counsel for respondent No.2 and Mr. D.V.Sudhir Kumar, the learned counsel for respondent Nos.5 and 6.

Respondent No.4, the husband of the petitioner, is stated to have died. Respondent No.3 also died and hence, he is not represented by any counsel in this Writ Petition.

The short issue arising for consideration in this Writ Petition is whether the impugned Lok Adalat award is in conformity with the extant legal provisions.

The brief facts leading to the filing of this Writ Petition are that respondent No.2, who is the daughter of respondent No.3, filed O.S.No.89 of 2011 on the file of the Senior Civil Judge,

Suryapet, for partition of the suit schedule properties and to allot 1/3rd each to her and defendant Nos.1 and 2 therein. Respondent No.3 was defendant No.1 and respondent No.4, the husband of the petitioner, was defendant No.2 in the said suit. It is the pleaded case of respondent No.2/plaintiff that all the parties including respondent Nos.3 and 4 have entered into a settlement, based on which, the civil Court has referred the case to respondent No.1. It is her further pleaded case that on 03.8.2013, the parties have signed the award, but it was formally passed on 17.9.2014.

One of the main grounds on which the petitioner has assailed the impugned award is that respondent No.3-defendant No.1 died on 03.8.2013 and that, evidently, he was impersonated at the behest of respondent No.2.

In the counter-affidavit filed by respondent No.1, the successor-in-office of the Chairman, Mandal Legal Services Committee, Suryapet, he has *inter alia* stated that as per the docket proceedings, dated 03.8.2013, both parties and their respective counsel were present before the Lok Adalat and filed the terms of compromise and that the parties were directed to deposit non-judicial stamps for passing the award. He has further stated that the factum of death of respondent

No.3/defendant No.1 on 03.8.2013 was not reflected in the said docket proceedings and that the Presiding Officer concerned, who recorded the docket proceedings, dated 03.8.2013, is competent to speak about the said proceedings. In para-7 of the counter-affidavit, he has further stated that as borne out from the record, the terms of compromise were filed on 03.8.2013 and the award was passed by the Lok Adalat on 17.9.2014. The deponent, however, could not explain the reason for non-passing of the award till 17.9.2014 as, he was not the Chairman of the Lok Adalat either at the time of recording the docket proceedings on 03.8.2013 or at the time of passing of the award on 17.9.2014.

Learned counsel for respondent Nos.2, 5 and 6 have fairly stated that after signing the award on 03.8.2013, respondent No.3 died in the evening of the same day and that the impugned award was passed by the Lok Adalat on 17.9.2014. However, they also failed to explain as to why the award was not passed by the Lok Adalat on 03.8.2013 itself.

Mr. J.Anil Kumar, learned Standing Counsel, submitted that the Lok Adalat could not have passed the award on 03.8.2013 without the parties depositing the non-judicial stamps for passing such award. He further submitted with

reference to the record that the parties have obtained challan only on 27.3.2014 and that, on filing of memo, dated 03.4.2014, by the counsel for respondent No.2-plaintiff to the effect that in view of obtaining of challan, the award may be passed by the Lok Adalat, the award was eventually passed on 17.9.2014 by respondent No.1.

Under Regulation-17(2) of the National Legal Services Authority (Lok Adalats) Regulations, 2009 (for short 'NALSA Regulations'), when both parties sign or affix their thumb impression and the members of the Lok Adalat countersign it, it becomes an award.

Under the Stamp Act, 1899, stamp duty is payable on the settlement relating to properties entered into between the parties. The Government of Andhra Pradesh issued G.O.Ms.No.585, Revenue (Registration-I) Department, dated 30.11.2013, reducing stamp duty payable in respect of the deeds of settlements depending upon the persons involved in the settlements. Thus, if a settlement is to be recorded by way of Lok Adalat award, the parties are required to pay stamp duty. This is the obvious reason why the Lok Adalat in its docket order, dated 03.8.2013, while referring to the settlement among the parties, directed the parties to deposit non-judicial stamps for passing

the award. It thus appears that though the parties were allowed to sign the proforma Lok Adalat award on 03.8.2013, as stamp duty was not paid by them by that date, respondent No.1 has not passed the award. It is only after the counsel for respondent No.2-plaintiff has filed a memo stating that non-judicial stamps were deposited, that the Lok Adalat has passed the award on 17.9.2014, evidently, after counter signing the same. In our opinion, the Lok Adalat has committed a procedural illegality in allowing the parties to sign on the proforma award without first ensuring that they file proof of payment of stamp duty. Unfortunately, for respondent No.2-plaintiff, by the time the members of respondent No.1 have countersigned and passed the Lok Adalat award, respondent No.3-defendant No.1 died.

The obvious purpose of countersigning the award by the members of Lok Adalat as envisaged under Rule-17(2) of the NALSA Regulations is to ensure that the parties to the litigation are properly identified and they sign the award. Thus, the countersigning, in our opinion, must be contemporaneous to the parties signing or affixing their thumb impressions to the award. Though there is no definite evidence to show that the members of respondent No.1 have countersigned the award on 17.9.2014, it is, however, reasonable to presume from the

docket order, dated 03.8.2013, that they have not countersigned the award on the day when the parties have signed on 03.8.2013, for the reason that the parties have not deposited the non-judicial stamps. From the further fact that the impugned Lok Adalat award bears '17.9.2014' as the date, it could be presumed that it is on that date that the members of respondent No.1 have countersigned the award. Thus, till 17.9.2014, the Lok Adalat award has not come into existence. Almost 13 months before the Lok Adalat passed the award, respondent No.3-defendant No.1 died. The members of respondent No.1 obviously failed to ensure that on the date when they passed the award on 17.9.2014 all the parties were present and once again sign, before they countersigned the award.

For the afore-mentioned reasons, the impugned Lok Adalat award passed after the death of one of the parties to the compromise, suffers from serious procedural infirmity and therefore, the same cannot be sustained in law.

The impugned Lok Adalat award is accordingly set aside. O.S.No.89 of 2011 is restored to the file of the Court of Senior Civil Judge, Suryapet. Respondent No.1 is directed to send back the file relating to the said suit to the said Court for adjudication on merits after hearing all the parties.

As a sequel to disposal of the Writ Petition, interim order, dated 28.6.2018, is vacated and I.A.Nos.1, 2 and 3 of 2018 are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHAYM PRASAD

27th September, 2018

DR

