

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

WRIT PETITION No.13765 of 2018

Date: 30.08.2018

Between :

Dheeravath Deshya

... Petitioner

And

The Mandal Legal Services Committee,
Miryalaguda, rep. by its Chairman,
Miryalaguda, Nalgonda District and others.

... Respondents

COUNSEL FOR PETITIONER : Sri M. Rajamalla Reddy,

COUNSEL FOR RESPONDENTS : Mr. J. Anil Kumar, SC for R1
Mr. T.V.P. Sai Vihar, Advocate for
Mr. Kowturu Pavan Kumar
for R2 to R8

THE COURT MADE THE FOLLOWING:

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

This writ petition is filed for issue of Mandamus to set aside the Lok Adalat Award dated 09.08.2017 in O.S.No.86 of 2017 on the file of the Lok Adalat Bench at Miryalaguda, presided over by the learned Senior Civil Judge, Miryalaguda.

We have heard Sri M. Rajamalla Reddy, learned counsel for the petitioner, Sri J. Anil Kumar, learned Standing Counsel for the Telangana State Legal Services Authority, representing respondent No.1, and Sri T.V.P. Sai Vihar, counsel representing Sri Kowturu Pavan Kumar, learned counsel for respondent Nos.2 to 8.

Respondent No.2, who is the brother's wife of the petitioner, filed O.S.No.86 of 2017 in the Court of the Senior Civil Judge, Miryalaguda, Nalgonda District, for partition of the plaint schedule properties comprising four items of agricultural lands against respondent Nos.3 to 8. Respondent No.2, however, has not impleaded the petitioner, who admittedly, belongs to the family of common ancestor. Based on a settlement arrived between respondent No.2 – plaintiff and respondent Nos.3 to 8 – defendants, the case was referred to the Lok Adalat Bench at Miryalaguda, which passed the impugned Award dated 09.08.2017, as per which the properties were divided among the plaintiff and the defendants.

On coming to know about the said Lok Adalat Award, the petitioner filed the present writ petition assailing the validity of the said Award.

The petitioner pleaded that he is the owner and possessor of an extent of Acs.2.04 guntas in Sy.No.112/4/2 and also an extent of Ac.1.32 guntas in Sy.No.44/2 of Kesavapuram Village, Damaracherla Mandal, Nalgonda District, and that in recognition of his ownership and possession, the Revenue authorities have issued Pattadar Pass Book and title deeds. The petitioner also averred that he has purchased an extent of Acs.2.16 guntas in Sy.No.143 of Kesavapuram Village. It is further pleaded by the petitioner that respondent No.2 – plaintiff has included the aforementioned 3 items of land in the suit schedule and in order to make a wrongful gain, she deliberately omitted to implead the petitioner as a party to the suit and got the Lok Adalat Award passed behind his back on a purported compromise with the defendants in the suit.

Respondent No.5 filed counter affidavit on behalf of himself and also on behalf of respondent Nos.2 to 4 and 6 to 8, wherein he disputed the claim of the petitioner that he is the owner of the aforementioned 3 items of the property.

We have perused the Pattadar Pass Book and title deeds filed by the petitioner, which prima-facie show that petitioner's name is

entered as Pattadar and possessor in respect of Acs.2.04 guntas in Sy.No.112/4/2 and Ac.1.32 guntas in Sy.No.144/2 of Kesavapuram Village.

Sri T.V.P. Sai Vihar, learned counsel submitted that item No.1 of the suit schedule properties pertains to Sy.No.112/4 and item No.3 of the suit schedule properties pertains to Sy.No.144, and whereas the petitioner claims the properties in Sy.No.112/4/2 and Sy.No.144/2 and that, therefore, the survey numbers, in respect of which the petitioner claims ownership and possession, appear to be different from those included in the suit schedule.

A comparison of the survey numbers referred to in the Pattadar Pass Book and title deeds and the plaint schedule shows that, while in the latter, sub-letters have not been mentioned, in the former, sub-letters were mentioned. Hence, we cannot accept the plea of the contesting respondents that the properties claimed by the petitioner are different from those included in the plaint schedule. However, we do not intend to render a conclusive finding on this aspect. The fact that the main survey numbers included in the suit schedule as well as in the Pattadar Pass Book and title deeds being common, it is for the Court to decide whether the lands mentioned in the impugned Lok Adalat Award are the same as claimed by the petitioner. Such adjudication is possible only after hearing all the parties to the suit.

The law is well settled, the Lok Adalats exercise only administrative jurisdiction and they have no adjudicatory power. When a bonafide dispute is raised by a third party to the Lok Adalat Award, it is not desirable to allow the Award to remain in force to his detriment. If respondent Nos.2 to 8 are entitled to a decree, by all means, they can secure the same on contest by the petitioner.

For the aforementioned reasons, the impugned Lok Adalat Award dated 09.08.2017 is set aside and O.S.No.86 of 2017 is restored to its original file. The petitioner is permitted to file an application for his impleadment in the above suit and contest the same. The jurisdictional Court shall thereupon adjudicate the suit on its own merits.

The writ petition is accordingly allowed. No order as to costs.

As a sequel to the allowing of the writ petition, I.A.No.1 of 2018 shall stand disposed of accordingly.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

30.08.2018.

Msr

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