

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

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.P.No.22356 of 2018

Date: 16.08.2018

Between:

Dasari Chellemma @ Rani,
W/o.Chinnapareddy,
Aged 38 years, Occ: Housewife,
R/o.Undavalli Village, Tadepalli mandal,
Guntur district,
State of Andhra Pradesh.

...

Petitioner

And

The State of Andhra Pradesh
rep. by its Principal Secretary,
Department of Law & Justice,
Velagapudi, Amaravathi,
Guntur district,
State of Andhra Pradesh
and ten others

...

Respondents

Counsel for the Petitioner : Mr. S.A.V.Sai Kumar

Counsel for the Respondents: G.P. for Law, Legal Affairs(AP)forR1
Mr.P.N.Murthy for R4
Mr.N.Srihari for R5,8,9,10,11

The Court made the following:

Order (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for issue of certiorari to quash Award dated 09.12.2017 in Lok Adalat Case No.529 of 2017 on the file of respondent No.2.

2. We have heard Mr.T.Laxmi Narayana, learned counsel appearing for the petitioner, Mr.P.N.Murthy, learned counsel for respondent No.4 and Mr.N.Srihari, learned counsel for respondent Nos.5, 8, 9, 10 and 11. Respondents No.3, 6 and 7 having died, no notice was ordered.

3. Respondents No.3 and 4 filed O.S.No.58 of 2016 in the Court of Senior Civil Judge, Mangalagiri, for partition of the plaint schedule properties against the other private respondents and also the petitioner, who was also impleaded as defendant No.7 in the said suit. The Presiding Officer of the Court of Senior Civil Judge, Mangalagiri, also acting as Chairperson-cum-Senior Civil Judge, Mandal Legal Services Committee, Mangalagiri, has registered the suit as Lok Adalat Case No.529 of 2017 and passed the Award, which was signed by plaintiff No.2, respondent No.5 (defendant No.2), respondent No.8 (defendant No.5), respondent No.9 (defendant No.6), respondent No.10 (defendant No.8) and respondent No.11 (defendant No.9). Admittedly, the petitioner – defendant No.7 has not signed the award (plaintiff No.1 – respondent No.3 having died).

Interestingly, in paragraph 4 of the Award, it is stated that defendants No.2, 5, 6, 8 and 9 have agreed to receive the properties jointly as per the settlement, with a view to settle the share of the petitioner – defendant No.7.

4. Under Regulation 17 (1) of the National Legal Services Authority (Lok Adalats) Regulations, 2009 (for short ‘the Regulations’), drawing up of the award is merely an administrative act by incorporating the terms of settlement or compromise agreed by the parties under the guidance and assistance from Lok Adalat. Under Regulation (2) thereof, when both parties to the dispute sign or affix their thumb impression and the members of the Lok Adalat countersign it, it becomes an Award. It is further provided thereunder that, whenever the parties are represented by counsel, they should also be required to sign the settlement or award, before the members of the Lok Adalat affix their signature.

5. In **SAI VUMA CHIT FUND COMPANY AND GROUP OF COMPANIES SUFFERERS WELFARE ASSOCIATION VS. STATE OF ANDHRA PRADESH**¹, a Division Bench of this Court, speaking through one of us (**CVNR,J**), on considering the above mentioned and other regulations, held as under:

“ On a reading of the above provisions, it is quite evident that the Lok Adalat shall ensure that the parties sign or affix their thumb impression, as the case may be, and their

¹ 2017 (5) ALD 249 (DB)

respective counsel also sign the settlement, which shall be countersigned by the members of the Lok Adalat and thereupon, the Award shall be drawn.

In our opinion, when any the parties to the proceeding before the Lok Adalat does not appear for any reason, it is not permissible for the Lok Adalat to act on the settlement entered into by the other parties for, it will not be exercising its adjudicatory power when it passes an Award based on a settlement simplicitor.....”

6. As the petitioner (defendant No.7) has admittedly not appeared and signed the impugned Lok Adalat award, the same is not sustainable. In the light of the above noted legal position, the Award is quashed. Respondent No.2 shall restore the suit to its original file for adjudication on merits.

7. The writ petition is, accordingly, allowed.

8. As a sequel to the disposal of the writ petition, I.A.No.1 of 2018 stands disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad,J)

Date: 16th August, 2018

msb

