

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

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.36700 of 2018

11.10.2018

Between:

J.A.Nagabhushanam

..Petitioner

and

J.A.Radhakrishna and others

..Respondents

Counsel for the petitioner: Mr.Shravan W.V.B.

Counsel for respondent No.11: Mr.J.Anil Kumar,
standing counsel for Legal Services Authority

Counsel for respondent Nos.1 to 10: --

The Court made the following:



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

This writ petition is filed for issue of *mandamus* to set aside Lok Adalat award, dated 15.11.2003, in O.S.No.158 of 1992 on the file of respondent No.11.

2. We have heard Mr.Shravan W.V.B., learned counsel for the petitioner, Mr.J.Anil Kumar, learned standing counsel for Legal Services Authority appearing for respondent No.11, and perused the record.

3. Respondent No.3 filed O.S.No.158 of 1992 seeking partition of the suit schedule properties. The petitioner is defendant No.2 in the said suit. On the consent of all the parties, including the petitioner, the suit was referred to respondent No.11 Lok Adalat and award was passed on 15.11.2003 containing various terms of settlement. Having waited for nine long years, after the passing of the Lok Adalat award, the petitioner filed O.S.No.87 of 2012 on the file of learned II Additional District Judge, Madanapalle, seeking setting aside of the Lok Adalat award. The petitioner filed I.A.No.54 of 2018 in O.S.No.87 of 2012 seeking return of the plaint on the ground that as per the law declared by the Supreme Court in **Bharvagi Constructions v. Kothakapu Muthyam**

Reddy¹, the suit is not maintainable. Accordingly, the plaint was returned by learned II Additional District Judge, Madanapalle, on 04.04.2018. Therefore, seeking the relief sought for in the said suit, the plaintiff therein filed this writ petition.

4. The learned counsel for the petitioner has submitted that the petitioner is constrained to file this writ petition for two reasons *viz.*, (1) that respondent No.3 failed to include some of the ancestral properties in O.S.No.158 of 1992 and the petitioner is deprived of the partition of the those excluded properties and (2) that even the Lok Adalat award has not been implemented.

5. We are afraid, the petitioner cannot challenge the Lok Adalat award for more reasons than one. Firstly, the petitioner has kept quiet for nine long years without challenging the Lok Adalat award. He has failed to offer proper explanation for not questioning the Lok Adalat award for such a long time. Even if we take the date of filing of O.S.No.87 of 2012 as the date of the filing of the writ petition, the same suffers from uncondonable laches. Secondly, it is not the pleaded case of the petitioner that respondent No.3 played fraud on him and other parties by excluding some ancestral properties. The petitioner, having signed

¹ 2017 (3) CCC 474 (SC)

the settlement with his eyes wide open, based on which the impugned Lok Adalat award has been passed, cannot turn around and question the same on the specious plea that some ancestral properties have not been included in the settlement leading to the passing of the Lok Adalat award. Thirdly, if the Lok Adalat award is not implemented by the parties, the petitioner is entitled to seek execution of the same as that of the decree of a civil Court, as under Section 21(1) of the Legal Service Authorities Act, 1987, every Lok Adalat award shall be deemed to be a decree of a civil Court and under Rule 18 of the Andhra Pradesh State Legal Services Authorities Rules, 1995, it is executable as a decree.

6. For the aforementioned reasons, the Writ Petition is liable to be dismissed and the same is, accordingly, dismissed.

7. As a sequel to dismissal of the writ petition, I.A.No.1 of 2018 filed by the petitioner for interim stay stands dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

T.AMARNATH GOUD, J

11th October, 2018

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