

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (PD) No.2789 of 2019

J.Ganesh Prasath

... Petitioner

Vs.

C.Saravanan

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, to direct the Court of Subordinate Judge, Nilgiris at Udhagamandalam for disposing of the Execution Petition in E.P.No.32 of 2017 in O.S.No.19 of 2011 expeditiously at an early date.

For Petitioner

: Mr.Ravi V.

ORDER

The plaintiff/petitioner herein has filed the suit in O.S.No.19 of 2011 on the file of the District Munsif, Coonoor, The Nilgiris. The suit has been referred to the Lok Adalat for settlement and on 20.08.2016 before the Lok Adalat the plaintiff and the second defendant, who has been the

contesting defendant appeared and settlement has been reached between the parties. The terms of the settlement reads as follows :

“ Terms of Settlement

The applicant as well as opponent agreed to settle the claim at Rs.8,50,000/- (Rupees Eight Lakhs and fifty thousand only) As against Rs.... (Rupees...) in full quit.

The Plaintiff and the Defendant No.2 present. On the basis of the Joint memo filed by the plaintiff and defendant No.2 settlement arrived between them and the defendant No.2 offered to pay a sum of Rs.8,50,000/- (Rupees eight lakhs and fifty thousand only) to the plaintiff within a period of 6 months from today (i.e.20.08.2016) and the plaintiff agreed to receive the same. Therefore the plaintiff today withdrew the above case.”

2. According to the said award dated 20.8.2016, the plaintiff withdrew the suit and the defendant offered to pay a sum of Rs.8,50,000/- to the plaintiff within a period of six months from the date of the Lok Adalat award i.e., on 20.8.2016.

3. Since the defendant did not come forward to honour the Lok Adalat award, the plaintiff was constrained to file an Execution

Petition in E.P.No.32 of 2017. The said execution petition was adjourned from time to time.

4. According to the learned counsel for the revision petitioner, even though, the Lok Adalat award was passed in the year 2016, the revision petitioner has not been able to get the fruits of the award. Since the award could not be executed, the same has not been so far given effect to. Therefore, only in that circumstances, the present revision petition is filed to expedite the Execution Petition and dispose of the same on merits and in accordance with law.

5. Though notice had been served on the respondent and his name and address is printed in the cause list, none appears on his behalf.

6. In the said circumstances, after having gone through the materials available on record, this Court has taken note of the fact that the Execution Petition has been pending from the year 2017 and that there is proof to show that the execution petition was taken up for hearing till last month and there is no considerable progress made

to execute the Lok Adalat award which is the final decree within the meaning of Section 21 of the Legal Services Authority Act.

7. The purpose of enacting the Legal Services Authority Act is to encourage the litigants to come forward to settle the matter before the Lok Adalat or through Alternative Disputes Resolutions for early disposal of the issues and that is the reason why if an award is passed through Lok Adalat with the consent of the parties no appeal will lie against such Lok Adalat within the meaning of 21 of the said Act.

8. When that being the position, the plaintiff though was able to get the award from the Lok Adalat on 20.08.2016 and filed the execution petition on 28.2.2017, which has been struggling for all these days, which is more than three years, to get the fruits of the Lok Adalat award/decreed and hence, there is every justification on the part of the petitioner to seek indulgence of this Court under Article 227 of the Constitution of India to issue suitable direction to the Court below to expedite the Execution Petition at the earliest point of time on merits and in accordance with law.

9. In that view of the matter this Court is inclined to issue the following directions :

The Subordinate Judge, Nilgiris at Udhagamandalam is hereby directed to expedite the execution petition in E.P.No.32 of 2017 and decide the same for completion of execution of Lok Adalat award dated 20.08.2016 made in O.S.No.19 of 2011 at the earliest, preferably within three months from the date of receipt of a copy of this order.

10. With the above direction, the Civil Revision Petition is disposed of accordingly. However, there shall be no order as to costs.

25.09.2019

Index: Yes / No

Speaking / Non speaking order

ms

WEB COPY

R.SURESH KUMAR, J.

ms

To

1. The Subordinate Judge,
Nilgiris at Udthagamandalam
2. The District Munsif, Coonoor,
The Nilgiris.



C.R.P.(PD) No.2789 of 2019

WEB COPY

25.09.2019

C.R.P. (PD) No.2789 of 2019

R. SURESH KUMAR, J.

This petition has been listed today under the caption "For Being Mentioned" at the instance of the learned counsel for the petitioner.

2. In this context, the learned counsel for the petitioner submits that during the pendency of the revision, due to bifurcation, E.P.No.32 of 2017 stands transferred from Sub Court, Nilgiris to Sub Court, Coonoor, where it has been renumbered as E.P.No.12 of 2018. This factor was not known to the petitioner at that time and now only it is brought to the notice of the revision petitioner. In view of the same, necessary correction is required to be made in the said order in paragraph No.9.

3. In view of the said development, the order dated 25.09.2019, paragraph No.9 shall be read as follows.

"9. In that view of the matter, this Court is inclined to issue the following directions:

The **Subordinate Judge, Coonoor at Udhagamandalam** is hereby directed to expedite the execution petition in **E.P.No.12 of 2018** and decide the same for completion of execution of Lok

R. SURESH KUMAR, J.

KST

Adalat award dated 20.08.2016 made in O.S.No.19 of 2011 at the earliest, preferably within three months from the date of receipt of a copy of this order.”

4. The necessary corrections as indicated above shall be carried out and corrected copy of the order shall be given to the petitioner.

14-11-2019

kst

WEB COPY

C.R.P. (PD) No.2789 of 2019