

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.(PD) No.3734 of 2019
and C.M.P.No.24519 of 2019

1.Rukmani
2.Prasath
3.Ranganayaki

... Petitioners

-Vs-

1.D.Ravi
2.G.Gopal
3.Lakshmi
4.Narayanan
5.Kalpana
6.Vijaya
7.Meenakshi
8.Thilagavanthi

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the docket order made in I.A.SR.No.5205/2019 in O.S.No.487 of 2008 dated 13.09.2019 on the file of the Principal District Judge and Sessions Court, Chengalpet.

For Petitioners : Mr.V.Chandraprabu

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ORDER

This revision petition has been filed against the docket order made in I.A.SR.No.5205/2019 in O.S.No.487 of 2008 dated 13.09.2019 on the file of the Principal District Judge and Sessions Court, Chengalpet.

2. Before the Court below, the said I.A., seems to have been filed by the present revision petitioners, who are the third parties to the suit in O.S.No.487 of 2008. The said application was filed by them to set aside the Lok Adalat Award passed between the plaintiffs and defendants in O.S.No.487 of 2008 and the said application, since has been rejected as not maintainable, by the docket order dated 13.09.2019, the revision petitioners filed the present revision.

3. I have heard the learned counsel appearing for the revision petitioners, who would submit that, the revision petitioners are the legal heirs of one Muralidharan, who inherited a piece of property at S.No.236/1B at Perungalathur Village to the extent of 41 cents from his grand parents. The defendants in the suit in O.S.No.487 of 2008 claimed title over some of the property in S.Nos.117, 236 and 239 of the same village and the said property, which is the subject matter in O.S.No.487 of 2008 seems to have been agreed upon for sale to the plaintiffs in the said suit ie., O.S.No.487 of 2008 by one Ravi and on the strength of the sale agreement between the plaintiffs and the defendants, the said suit was filed for specific performance and during the pendency of the suit, they seems to have entered into a compromise and accordingly Lok Adalat Award was passed on 26.06.2009 in O.S.No.487 of 2008, pursuant to which, in order to execute the same E.P.No.35 of 2017 has been filed by the plaintiffs in the said suit, where the defendants seems to have obtained a patta wrongly in respect of the property belonging to these revision petitioners in S.No.236/1B also along with S.Nos. 117,

236 and 239 of the same village. Therefore, on that strength, the Execution Petition seems to have been filed to execute the sale deed in favour of the plaintiffs in the suit in O.S.No.437 of 2008 for the whole property including the property claimed to be that of the petitioners herein ie., S.No.236/1B to the extent of 41 cents. Therefore, an application to clarify that position and to clear the property of 41 cents belonging to the revision petitioners from the purview of execution, an application under Section 47 was filed and that application was rejected by the Execution Court on the ground stating that, the decree passed ie., the Lok Adalat Award between the parties in the suit in O.S.No.487 of 2008 is in operation and the same has not been set aside. Therefore, in all respects, the said compromise decree made in O.S.No.487 of 2008 between the parties in the suit is an executable one and unless and until the said decree is set aside, the Execution proceedings cannot be persuaded by filing the present application under Section 47 of C.P.C., by the third party ie., the revision petitioners.

4. As against the said rejection made in the Section 47 application filed by the revision petitioners instead of filing any further appeal or revision, they have chosen to file the present petition to set aside the Lok Adalat award itself made in O.S.No.487 of 2008 and the said application now has been returned as not maintainable by the impugned docket order. Assailing the same, the present revision has been filed and the learned counsel for the revision petitioners reiterated the said grounds and seek for the indulgence of this Court.

5. I have considered the said submission made by the learned counsel for the revision petitioners / third parties and have gone through the materials placed on record.

6. Admittedly, the property claimed to be the property of the revision petitioners / third parties is 41 cents in S.No.236/1B at Perungalathur Village. The said property is not covered, according to the revision petitioners, in the decree ie., the Lok Adalat award made in O.S.No.487 of 2008. If at all the revision petitioners have got any grievance that, in the pretext of the decree ie., the Lok Adalat Award, if the plaintiffs in the said suit O.S.No.487 of 2008 wanted to execute the decree by seeking execution of the sale deed in respect of the entire property, whereby if the property of the petitioners is also wrongly included, the said issue can very well be agitated only by filing appropriate petition before the Execution Court, which of course, has rightly been done by invoking Section 47 of C.P.C.

7. If at all such application filed under Section 47 is rejected by the Execution Court, the remedy is elsewhere for the revision petitioners to agitate the issue once again before the appellate forum. Instead, the petitioners have filed the present application to set aside the Lok Adalat Award entered into between the parties in O.S.No.487 of 2008. Under the provisions of the Legal Services Authority Act, once Lok Adalat passes an award by way of compromise reached between the parties, which is in consonance of Section 89 of C.P.C., that kind of award is not appealable

and the said award cannot be set aside or brushed aside unless and until the same is proved beyond doubt that the Lok Adalat Award was passed by way of fraud and collusion between the parties.

8. In the case on hand, admittedly the property belonging to the revision petitioners is in S.No.236/1B and the learned counsel for the revision petitioners would submit that the property is an exclusive property and not been included in the schedule of the suit in O.S.No.487 of 2008. Therefore, what are all the properties included in the compromise decree by way of compromise award made in O.S.No.487 of 2008, that will not bind the revision petitioners, who is no way connected with the decree.

9. It is also seen that in respect of the property belonging to the revision petitioners, there has been a suit between the petitioners and other defendants in O.S.No.88 of 2006. In this regard, it is claimed by the revision petitioners that, the suit against the revision petitioners was dismissed, as against which nothing was preferred by the defendants, but the suit filed by the revision petitioners against the defendants, though has been dismissed, as against which appeal has been filed and it is being pursued by the revision petitioners.

10. Therefore, if at all any right has to be established by the revision petitioners against the defendants in O.S.No.487 of 2008, in respect of S.No.236/1B

to the extent of 41 cents, that issue can very well be agitated in the appeal suit pending before the concerned Court.

11. Therefore, the present application to set aside the Lok Adalat Award dated 26.06.2009 made between the parties in O.S.No.487 of 2008, is not sustainable and these revision petitioners have no role to play and therefore, it cannot be set aside.

12. In that view of the matter, the present application filed by the revision petitioners is a vain attempt. Therefore, it has been rightly dealt with by the Court below, by rejecting the said application. The reasons given by the Court below and the rejection made is sustainable and requires no interference from this Court.

13. In the result, this Civil Revision Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

सत्यमेव जयते

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Index : Yes / No
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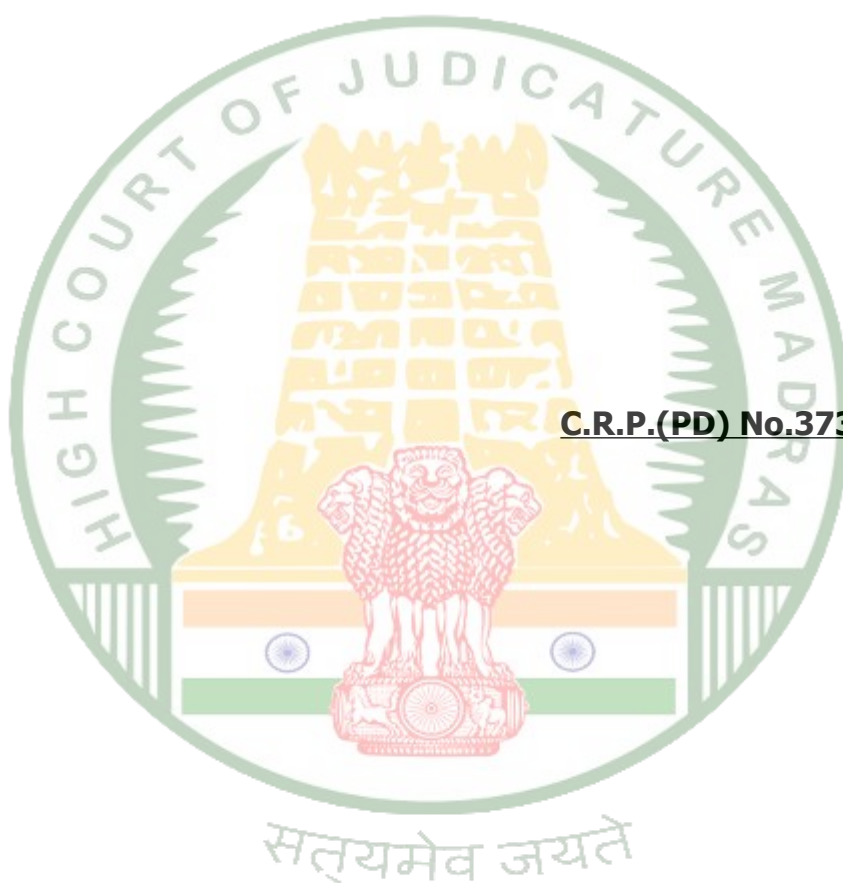
To

Principal District Judge and Sessions Court, Chengalpet.

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R. SURESH KUMAR, J.

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