



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 26.06.2019
DELIEVRED ON : 30.07.2019

WEB COPY

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P (MD) Nos.847 and 978 of 2019 (NPD)
and
C.M.P. (MD) .Nos.5053 and 5501 of 2019

Benjamin David Jayasingh ... Petitioner in both the petitions /
Judgment Debtor/Defendant
Vs.

Hendry Selvaraj @ Hendry Samuel Sundar Singh

Sarojini Selvaraj (died) ... Respondents in both the petitions/
Decree holders / Plaintiffs

PRAYER in C.R.P. (MD) .No.847 of 2019:

Civil Revision Petition filed under Section 115 of C.P.C., against the fair and decreetal order dated 05.03.2019, passed in E.P.No.44 of 2018 in O.S.No.4 of 2017 by the Subordinate Court, Virudhunagar District.

PRAYER in C.R.P. (MD) .No.978 of 2019:

Civil Revision Petition filed under Article 227 of the Constitution of India, against the award passed by the Taluk Legal Services Authority in O.S.No.4 of 2017 on the file of the Subordinate Court, Virudhunagar, dated 25.07.2018.

For petitioner in both the
petitions : Mr.M.Kannan

For respondent in both the
petitions : Mr.S.Parthasarathi

COMMON ORDER

C.R.P. (MD) .No.847 of 2019 has been filed by the petitioner / defendant challenging the order passed in E.P.No.44 of 2018 in O.S.No.4 of 2017, dated 05.03.2019, whereby and whereunder the Court below has directed the petitioner to hand over vacant possession of the suit property to the respondent/defendant, as per the Lok-Adalat award dated 25.07.2018, made in O.S.No.4 of 2017.

2.C.R.P. (MD) .No.978 of 2019 has been filed by the petitioner/defendant challenging the Lok-Adalat award dated 25.07.2018 made in O.S.No.4 of 2017 by the Taluk Legal Services Authority, Virudhunagar.



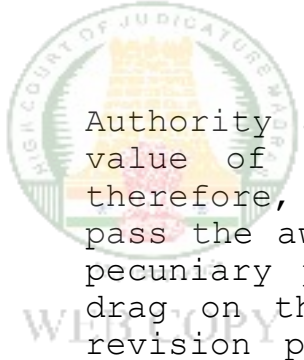
3. As the issue involved in both the petitions are interrelated to each other and arising out of one and the same suit, they were heard together and are being disposed of by way of this common order.

WEB COPY

4. The respondent herein filed the suit in O.S.No.4 of 2017, along with his mother, the 2nd plaintiff, for recovery of possession of the suit property from the petitioner/defendant and for a direction to pay a sum of Rs.1 lakh for his unlawful occupation of the suit property by way of damages from the date of the suit till the date of eviction. According to the respondent / first plaintiff, the petitioner/defendant was in permissive occupation of the suit property and he refused to vacate the suit property from 14.09.2013. According to the petitioner/defendant, he is entitled to half share in the suit property as he had contributed Rs.25,000/- for the purchase of the suit property to the 2nd plaintiff. In the Lok-Adalat held on 25.07.2018, both the parties have entered into a compromise and recording the joint compromise memo dated 25.07.2018, submitted by the parties with their signatures, an award was passed in the Lok-Adalath on the same day. Since the petitioner/defendant failed to vacate the suit property as per the award dated 25.07.2018, the respondent/first plaintiff filed E.P.No.44 of 2019. The Court below, by order dated 05.03.2019, directed the petitioner/defendant to vacate the suit property and hand over vacant possession to the respondent/first plaintiff. Challenging the said order passed by the Court below, the petitioner/defendant has filed C.R.P.(MD).No.847 of 2019. Subsequently, challenging the Lok-Adalath award dated 25.07.2018, the petitioner/defendant has filed another Civil Revision Petition in C.R.P.(MD).No.978 of 2019.

5. The learned counsel appearing for the petitioner/defendant submitted that any agreement or compromise in a suit can be made only within the territorial and pecuniary jurisdiction of the Court, whereas, in this case, the agreement and terms of compromise made is beyond the territorial jurisdiction of the Subordinate Court, Virudhunagar and the Taluk Legal Services Authority has no pecuniary jurisdiction of the Court which referred the dispute for settlement. Therefore, according to the petitioner, the Lok-Adalat award cannot be executed by the trial Court and the trial Court ought to have been followed Order 23 Rule 3 C.P.C. before passing any orders, but, the Court below has failed to consider the same. Thus, he prayed to set aside the Lok-Adalat award dated 25.07.2018 and to set aside the consequential order dated 05.03.2019 passed in E.P.No.44 of 2018 in O.S.No.4 of 2017.

6. The learned counsel appearing for the respondent/first plaintiff submitted that the Taluk Legal Services Authority was headed by the Subordinate Judge, Virudhunagar and therefore, the suit, which was pending on the file of the Subordinate Court, Virudhunagar, was rightly referred to the Taluk Legal Services



Authority and award was passed. He would further submit that the value of the suit mentioned in the plaint was Rs.5 lakhs and therefore, the Taluk Legal Services Authority has jurisdiction to pass the award, though the value of the settlement is more than the pecuniary jurisdiction. He would further submit that in order to drag on the proceedings, the petitioner/defendant has filed this revision petition. Thus, he prayed to dismiss both the revision petitions.

7. Heard the learned counsel for both sides and perused the records carefully.

8. It is well settled that where an award is made by Lok-Adalat in terms of a settlement arrived at between the parties, which is duly signed by parties and annexed to the award of the Lok-Adalat, it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a Civil Court and no appeal lies against it to any Court.

9. For better understanding, Section 21 of the Legal Services Authorities Act is extracted hereunder:

"21.Award of Lok Adalat.- (1) Every award of the Lok Adalat shall be deemed to be a decree of a Civil Court or, as the case may be, an order of any other Court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section(1) of Section 20, the Court fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870 (7 of 1870).

(2) Every award made by a Lok Adalat shall be final and binding on the parties to the dispute, and no appeal shall lie to any Court against the award."

10. Admittedly, in this case, both the parties appeared in the Lok-Adalat conducted by the Taluk Legal Services Authority on 25.07.2018 and submitted the terms of compromise entered between them and based on the same, the Lok-Adalat Award was passed. As the award has been passed with the consent of the parties, now one of the parties to the award cannot question the same.

11. Taluk Legal Services Authority is being headed by the Presiding Judge of the highest Court functioning in the Taluk. In Virudhunagar Taluk, the Taluk Legal Services Authority is headed by the Subordinate Judge, Virudhunagar. Hence, the suit in O.S.No.4 of 2017, which was pending on the file of the Subordinate Court, Virudhunagar matter was referred to the Lok-Adalat conducted by the Taluk Legal Services Authority, which was headed by a retired Judge in the rank of Senior Civil Judge ie., Subordinate Judge. Therefore, it cannot be contended that the Lok-Adalat conducted by



Taluk Legal Services Authority has no territorial jurisdiction to deal with the matter.

12. It is seen that the value of the suit mentioned in the plaint was Rs.5 lakhs. The suit was taken on file by the Subordinate Court, Virudhunagar. The petitioner/defendant has not disputed the value of the suit property in his written statement. The submission of the petitioner/defendant is that though the value of the suit was Rs.5 lakhs, the settlement was made upto Rs.40 lakhs and therefore, the Taluk Legal Services Authority has no jurisdiction to pass award.

13. Admittedly, the jurisdiction of the Civil Court can be decided only based on the value of the suit and as such, the suit was rightly taken on file by the Subordinate Court, Virudhunagar. Before the Lok-Adalat both the parties appeared and submitted a joint compromise deed, wherein it is stated that if the petitioner/defendant pays Rs.40 lakhs to the respondent/first plaintiff on or before 01.11.2018, the suit property will be settled in favour of the petitioner/defendant or otherwise, the petitioner/defendant should receive Rs.22,50,000/- to be given by the respondent/first plaintiff and give vacant possession of the suit property. Merely because the value of settlement is more than the pecuniary jurisdiction of the Court, it cannot be said that the Lok-Adalath has no pecuniary jurisdiction to deal with the matter. The value of the settlement is not the criteria.

14. The learned counsel for the petitioner/defendant, relying on paragraph No.40 of the decision of the Hon'ble Supreme Court in **Afcons Infrastructure Limited and another Vs. Cherian Varkey Construction Company Private Limited and others**, reported in (2010) 8 SCC 24, has submitted that the Court below ought to have applied the principles of Order 23 Rule 3 of the Civil Procedure Code in this case. Paragraph No.40 of the above decision reads as follows:

"40. Whenever such settlements reached before non-adjudicatory ADR fora are placed before the Court, the Court should apply the principles of Order 23 Rule 3 of the Code and make a decree/order in terms of the settlement, in regard to the subject-matter of the suit/proceedings. In regard to the matters/disputes which are not the subject matter of the suit/proceedings, the Court will have to direct that the settlement shall be governed by Section 74 of the AC Act (in respect of conciliation settlements) or Section 21 of the Legal Services Authorities Act, 1987, (in respect of settlements by a Lok-Adalat or a mediator). Only then such settlement will be effective."

15. In the above decision, the Hon'ble Supreme Court has held that if the Court continues to retain control and jurisdiction over the cases, which it refers to conciliations or Lok-Adalats, such



settlement agreement in conciliation or the Lok-Adalat award will have to be placed before the Court for recording it and disposal in its terms, and when such settlements are placed before the Court, the Court should apply the principles of Order 23 Rule 3 of the Code. Here, it is not such a case. It is a case, where the parties agreed for an award in the Lok-Adalat and an award has been passed based on the settlement already arrived at between the parties. Further, it is not a case where, as held by the Hon'ble Supreme Court, the trial Court has referred the matter for settlement keeping control over the suit, after referring the suit to Lok-Adalat for settlement. Records show that the suit was referred to Lok Adalat for an award, as per the settlement already arrived at between the parties themselves. Therefore, the reference to the Lok Adalat is not for a settlement and thereafter, to place the matter before the Court for passing the judgment and decree based on the settlement arrived in the Lok Adalat or Conciliation. Hence, the decision relied on by the petitioner is not applicable to the facts and circumstances of this case.

16. It appears that the petitioner/defendant, after entering into an agreement with the respondent/ first plaintiff and after conceding to an award, as per the settlement, before the Lok Aadalath, with an intention to drag on the proceedings, has filed these petitions, which cannot either be appreciated or approved by this Court. This Court does not find any reason to interfere with the Lok-Adalat award and consequential order passed by the Court below in the execution petition. In view of the above, this Court is inclined to dismiss both the petitions.

17. In the result, both the civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

To
The Subordinate Judge,
Virudhunagar.

+1 CC to MR.S.PARTHASARATHI, Advocate (SR-78672[F] dated 30/07/2019)

+1 CC to Mr.M.KANNAN, Advocate (SR-78936[F] dated 31/07/2019)

Common Order made in
C.R.P (MD) Nos.847 and 978 of 2019 (NPD)
30.07.2019