



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.14974 of 2019

and

W.M.P (MD) .No.11482 of 2019

K.Subbaiah

... Petitioner

Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Tahsildar,
Vilathikulam Taluk,
Tuticorin District.

3.The Taluk Legal Service Committee,
District Munsif Court,
Vilathikulam,
Tuticorin District.

4.V.Shanthi

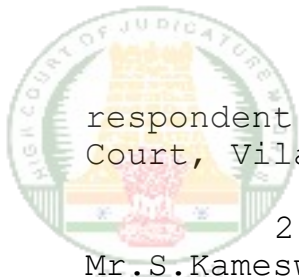
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling for the record pertaining to the impugned Lok Adalat award 09.09.2017 in O.S. No.31/2017 passed by the third respondent along with the impugned legal heirs certificate in proceedings No.512/4539/2017 dated on 19.09.2017 issued by the second respondent and set aside the same and consequentially direct the respondents 1 and 2 to issue legal heirs certificate for the Late.Kandasamy Reddiyar in accordance with law.

For Petitioner	:	M/s.Lakshmi Gopinath for Mr.M.Prabu
For R-1 to R-3	:	Mr.S.Kameswaran Government Advocate.
For R-4	:	No appearance

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with an award of the Lok Adalat dated 09.09.2017 passed in O.S.No.31 of 2017 by the third



respondent / The Taluk Legal Service Committee, District Munsif Court, Vilathikulam, Tuticorin District.

2. Heard learned counsel for the petitioner and Mr.S.Kameswaran, learned Government Advocate who takes notice for respondents 1 to 3.

3. There is no representation on behalf of the fourth respondent. But, if the learned counsel for the fourth respondent peruses the present order now, he would understand that the order, only gives the fourth respondent an opportunity to re-agitate the issues, which had been unlawfully settled before the legal services authorities.

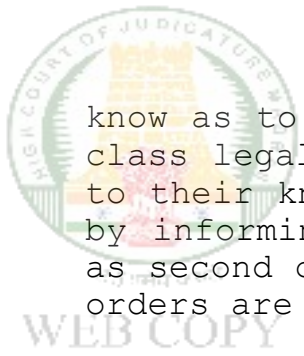
4. The issue whether an award granted by the Lok Adalat can be examined under Article 226 of the Constitution or under Article 227 of the Constitution has very frequently come for determination of Courts. But, however, if there is an error in the award passed and if it is evident that fraud has been played, then Article 226 certainly comes into play.

5. In the instant case, the petitioner and the fourth respondent are relatives. But they also have disputes and differences of opinion. My attention had been drawn by the learned counsel for the petitioner to a genealogy table. The mother of the petitioner is called Punnammal. She had a sister Pottayammal @ Kamarakkal. That sister had a daughter Chennammal. Chennammal had many children and one among them is the fourth respondent, V.Shanthi.

6. The entire issue surrounds grant of legal heirship certificate with respect to the brother of both the mother of the petitioner, Punnammal and her sister, Pottayammal / grandmother of the fourth respondent. That brother was called Kandasamy Reddiyar. He died without leaving any Class-I legal heir. His sisters claimed right to be recognised as Class-II legal heirs. Punnammal, sister of Kandasamy Reddiyar / mother of the petitioner is alive. However, the other sister, Pottayammal @ Kamarakkal has died. Therefore, her right flowed to her daughter, Chennammal, who had also died and thereafter to the fourth respondent, V.Shanthi, who is one among the various other children of Chennammal.

7. The issue of legal heirship can therefore be settled only in a suit.

8. It appears that the fourth respondent / V.Shanthi, had filed a suit in O.S.No.31 of 2017. A copy of the plaint had been filed as a document to the Writ Petition. She had impleaded the Government of Tamil Nadu, represented by its Collector, Thoothukudi and the Tahsildar of Vilathikulam as defendants in the said suit. I can not see how the Collector and the Tahsildar would

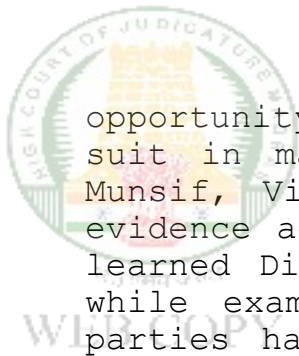


know as to who are the necessary parties to be recognised as second class legal heirs of a deceased individual. If that information is to their knowledge, then a duty is cast on them to assist the Court by informing the said Court that there are various other claimants as second class legal heirs and they should also be heard before any orders are passed.

9. O.S.No.31 of 2017 was filed in the District Munsif Court, Vilathikulam. The said suit was referred to Lok Adalat. In the Lok Adalat, again only the plaintiff therein / the fourth respondent herein / V.Shanthi and the Tahsildar, Vilathikulam appeared. If the Tahsildar is somebody who knows about the inhabitants of that particular village, he would have definitely known that the plaintiff / V.Shanthi / the fourth respondent herein had other brothers and sisters and has, a grandmother who is the sister of the deceased, Kandasamy Reddiyar and that her grandmother / sister of Kandasamy Reddiyar had other sisters and brothers. If that information had been given to the Taluk Legal Services Authority, they would have refrained from passing the order which is assailed now before this Court. Unfortunately, they were not made aware of the said details. The Tahsildar had failed in his duty. I should by all means take necessary steps as against the said Tahsildar who had appeared before the Taluk Legal Services Authority on 09.09.2017.

10. A direction is placed on the office of the Government Pleader, Madurai Bench of the Madras High Court to find out who the particular Tahsildar was, who appeared before the Lok Adalat on 09.09.2017 and misled the Lok Adalat to pass the impugned order. Necessary disciplinary proceedings has to be issued against that particular Tahsildar. Unfortunately, since the name is not known, I am not able to name the individual, but the office of the Government Pleader of the Madurai Bench of the Madras High Court, can forward a copy of this order to the District Collector, Tuticorin District, who should take necessary action as against the said Tahsildar. In view of his failure to discharge the duty cast on him, an order came to be passed by the Taluk Legal Services Authority which is *per se* illegal and *non est* in law.

11. Kandasamy Reddiyar had other brothers and sisters. They have several children who should have been heard before grant of legal heirship certificate for Kandasamy Reddiyar. It is informed that the petitioner herein, in his position as the son of the sister of Kandasamy Reddiyar, has now instituted a suit in O.S.No.46 of 2017, where he had also shown the fourth respondent as a defendant. Let the entire issue with respect to the legal heirship of Kandasamy Reddiyar be decided in that particular suit. Since the fourth respondent is a defendant in that particular suit, I have proceeded to pass this particular order even in the absence of the learned counsel for the fourth respondent herein, since



opportunity is granted to the fourth respondent to contest the said suit in manner known to law and to invite the learned District Munsif, Vilathikulam to pass a considered order on the basis of evidence adduced by the parties. A direction is also given to the learned District Munsif, Vilathikulam to take necessary precaution while examining issues in any suit and examine whether all the parties had been impleaded and thereafter, refer the parties for alternate dispute resolution.

12. In this connection, since such preliminary enquiry had not been made, I would also direct the Additional Registrar General of the Madurai Bench of the Madras High Court to find out the learned District Munsif of Vilathikulam, who had referred O.S.No.31 of 2017 to the Lok Adalat on 09.09.2017 and obtain necessary explanation from the learned District Munsif, Vilathikulam as to the parameters which he had examined before referring that particular suit for reference to the Lok Adalat in the absence of a string of second class legal heirs not being impleaded as parties to the suit.

13. A copy of this order shall be served on the office of the Government Pleader, Madurai Bench of the Madras High Court and the District Collector, Tuticorin and to the Additional Registrar General, Madurai Bench of the Madras High Court to comply with the aforesaid directions to initiate necessary disciplinary proceedings against the Tahsildar, Vilathikulam and to get explanation from the learned District Munsif, Vilathikulam.

14. With the above observations, this Writ Petition stands allowed. The impugned order is set aside. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The District Munsif,Vilatikulam

2.The District Collector,
Tuticorin District,
Tuticorin.(2C)

3.The Tahsildar,
Vilathikulam Taluk,
Tuticorin District.

4.The Taluk Legal Service Committee,
District Munsif Court,
Vilathikulam,
Tuticorin District.

5.The Government Pleader
The office of the Government Pleader,
Madurai Bench of the Madras High Court.

6.The Additional Registrar General,
Madurai Bench of the Madras High Court,Madurai

+1 CC to M/s.M.PRABU, Advocate (SR-39770[F] dated 21/12/2021)

+1 CC to M/s.F.X.EUGENE, Advocate (SR-39895[F] dated 22/12/2021)

+1 CC to M/s.SPL GP (SR-39974[F] dated 22/12/2021)

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TSK(CO)
KB(28.01.2022) 5P 11C