

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2426 OF 2022

Baliram Krushna Salunke

..Petitioner

Versus

Pravin Raosaheb Salunke

..Respondent

Mr. M.P. Kale, Advocate for the petitioner.

Ms. Priyanka Deshpande, Advocate for respondent.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 6th OCTOBER, 2022

ORDER :

1. By this petition filed under Article 226 and 227 of Constitution of India, the petitioner challenges the award passed by the Lokadalat on the basis of compromise.

2. It is the case of the petitioner that by playing fraud, the respondent obtained thumb impression of the petitioner on the alleged compromise. The petitioner is 91 years old and has five sons and one daughter and he could not have given the subject land to the respondent, who happens to be nephew of the petitioner, by way of compromise.

3. Respondent filed Regular Civil Suit No. 29/2021 in the Court of Civil Judge Junior Division, Ausa, claiming perpetual injunction against the petitioner from interfering in the peaceful physical possession of the respondent from the suit property, which he claims to be given by the petitioner to him by way of gift deed. According to the petitioner on the pretext of obtaining benefits of government scheme, the petitioner was made to put his thumb impression on the compromise terms. The respondent has filed suit on 27.07.2021 and the compromise is recorded on 01.08.2021. He, therefore, challenges the award passed by the Lokadalat.

4. I have duly considered the rival submissions of learned advocate for the petitioner and learned advocate for the respondent. Perused the grounds raised in the writ petition, annexures thereto and the citations relied on by the learned advocate for the respondent.

5. In an unreported decision in Writ Petition No 6027 of 2022 (Mogya Tembrya Vasave and Others Vs. Raya Hunya Vasave and Others), by relying upon Apex Court's decision in K. Srinivasappa and Ors. Vs. M. Mallamma and Ors., 2022 SCC

OnLine SC 636 the learned Single Judge of this Court has taken a view that, '*allegations regarding alleged fraud would involve scrutiny of facts based on the evidence. Such an exercise is not possible to be undertaken while exercising a writ jurisdiction.*' This Court, therefore, instead of entertaining the writ petition, thought it appropriate to grant liberty in favour of the petitioners therein to approach Lokadalat, putting up grievance of the alleged fraud.

6. I respectfully agree with the above observations and I am inclined to adopt the same course.

7. In the result, writ petition is disposed of with liberty to the petitioner to approach Lokadalat challenging the award passed by Lokadalat on the basis of compromise.

8. If such proceeding is filed, it shall be expeditiously decided by the Lokadalat.

9. All the contentions of respective parties are kept open.

[NITIN B. SURYAWANSHI, J.]