

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7547 OF 2023

Sudesh Onkarlal Verma.

...Petitioner.

Versus

Nakul Sudesh Verma and Others.

..Respondents.

Mr. Vaibhav Kadam, Mr. Aditya Thorat, Mr. Sameer Parkar, Ms. Aprajita Natho and Mr. Yash Fadtare for the petitioner.

Mr. Afzal Hussain M. Vakil for respondent nos. 1 and 2.

Coram : Sharmila U. Deshmukh, J.

Date : July 17, 2023.

P. C. :

1. Heard.

2. The challenge in the petition is to the order dated 30th April 2023 which is an award of Lokadalat in Special Civil Suit No.303 of 2023. Learned counsel for the petitioner has pointed out the certificate issued by Navaastha Foundation, De-addiction Rehabilitation and Mental Health Care Centre, Nashik, which is at page no.92-A of petition and would contend that respondent no.1, i.e., the son of petitioner, had admitted the petitioner in this centre during the period from 16th March 2023 to 24th April 2023 and thereafter

from 25th April 2023 to 30th April 2023. He further points out the medical certificate issued by Apollo Hospitals, Nashik which shows the undisplaced fractures of the right 9th and 10th ribs and would contend that the petitioner was assaulted and thereafter forced to enter into compromise which is recorded vide order dated 30th April 2023.

3. *Per contra*, learned counsel for respondent nos.1 and 2 points out that the compromise has been executed by the petitioner out of his free will, which is evidenced by the signatures of petitioner on the compromise deed. He would further contend that it was only at the request of the sister of petitioner that the petitioner was admitted in Navaastha Foundation, a De-addiction Rehabilitation and Mental Health Care Centre, Nashik. He would further contend that as per the compromise deed, the petitioner was given certain quantity of gold and silver from his shop, as such, interest of the petitioner is well protected. He would further point out that pursuant to the consent terms, which were executed between the parties, respondent no.1 has repaid the loan of Rs.60 lakh in respect of the premises.

4. Considered the submissions of learned counsel for the respective parties.

5. This is a very unfortunate case in which the wife and son of petitioner have taken undue advantage of the addiction of the petitioner and have thereby manipulated the proceedings before the Court to obtain a compromise decree. The entire process was completed within a period of six days from the date of institution of the suit and particularly when the petitioner was undergoing treatment at Navaastha Foundation, De-addiction Rehabilitation and Mental Health Care Centre, Nashik. From the certificate which has been produced on record, it appears that the petitioner was admitted to the said centre by respondent no.1 on 16th March 2023 to 24th April 2023. **The proceedings in question, i.e., the divorce proceedings under the provisions of Hindu Marriage Act was filed on 24th April, 2023 and the suit bearing Special Civil Suit No.303 of 2023 seeking partition and separate possession was affirmed on 25th April, 2023 and filed on 27th April 2023.** There is no explanation which is forthcoming from the respondents as to why the petitioner was taken from Navaastha Foundation, De-addiction Rehabilitation and Mental Health Care Centre, Nashik on 24th April 2023 and on the very next day, was again admitted to the said centre. The answer is not far to seek inasmuch as the documents were sought to be executed in favour of respondent nos. 1 and 2. On 30th April 2023, a compromise deed was entered into in Lokadalat, i.e., within 5 days from the date of

institution of Special Civil Suit No. 303 of 2023 which itself points out the suspicious circumstances in which the compromise has been entered into. It is also not clear as to why the compromise came to be executed on 30th April 2023 when the certificate of Navaastha Foundation, De-addiction Rehabilitation and Mental Health Care Centre, Nashik points out that during the period 25th April 2023 to 30th April 2023, the petitioner was admitted at the said centre. The medical certificate which has been produced on record shows the fracture to the right ribs of petitioner which leads credence to the submissions of learned counsel for the petitioner that the compromise deed was entered into by fraud and coercion.

6. It is also to be noted that compromise deed was executed on 30th April 2023. Admittedly, the petitioner was admitted in the centre on 25th April 2023. There is no material to demonstrate as to when the compromise terms were shown to the petitioner for him to agree to the terms. Immediately, on 30th April 2023, the consent terms were executed.

7. Perusal of compromise deed which is annexed at page 81 of the petition indicates that the flat has been given to respondent no.2– wife and the property bearing Survey No.3202 has been given to

respondent no.1 as also the jewellery shop–Pooja Jewellers has been taken over by respondent no.1. The consent terms record that out of the stock available in the shop, 2 kg and 800 grams of gold and 3 kg. of silver has been given to the petitioner. The consent terms further record that out of the loan amount of Rs.60 lakh plus interest which was on the Survey No. 3202, Rs.20 lakh has to be paid by the petitioner and Rs.40 lakh has to be paid by respondent no.1. The consent terms itself indicates the disproportionate manner in which the terms have been arrived at between the parties inasmuch as in the immovable properties, the petitioner has not been given anything. It is not disputed that jewellery shop and the landed property are the self acquired properties of petitioner. In my view, taking undue advantage of the fragile mental condition of petitioner, as he was undergoing the treatment at Navaastha Foundation, a De-addiction Rehabilitation and Mental Health Care Centre, the compromise deed has been entered into. It appears that the petitioner was not given any opportunity to consider the proposed terms as admittedly he was in the de-addiction centre.

8. In view of the above, the impugned award dated 30th April 2023 passed in Lakadalat in Special Civil Suit No.303 of 2023 is hereby quashed and set aside and the said suit is restored to the file.

9. The respondents are at liberty to seek appropriate reliefs as regards the amount of loan claimed to be paid by respondent no.1.

10. At this stage, a request is made by learned counsel for respondent nos.1 and 2 for stay of this order for a period of three weeks. Considering the manner in which the entire proceedings has been taken, the request for stay is declined.

[Sharmila U. Deshmukh, J.]

[Order is corrected as per the speaking to minutes
order dated 24th July 2023.]