



WP.No.9989 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.9989 of 2019
and
W.M.P.No.10570 of 2019

1.M.V.Balaji
2.M.A.Aravind

... Petitioners

Vs

1.The Presiding Officer,
Lok Adalat at Puducherry,
Puducherry.

2.Radjaradjeswary
3.M.Kanagaraj
4.Kousalya

... Respondents

Prayer: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the proceedings of the first respondent in award passed in Lok Adalat Case No.2370 of 2019 in O.S.No.6 of 2017 dated 22.2.2019, quash the same and consequently direct the II Additional District Judge to take O.S.No.6 of 2017 on file and dispose of the same on merits along with the suit in O.S.No.21 of 2019 in accordance with law as expeditiously as possible within the time frame.

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For Petitioners : Mr.S.Xavier Felix

For Respondents : Dr.B.Ramaswamy,
Additional Government Pleader (P) [R1]
Mr.K.G.Thrimoorthy [R2 to R4]

ORDER

The petitioners have filed this writ petition seeking to quash the award passed in Lok Adalat Case No.2370 of 2019 in O.S.No.6 of 2017 dated 22.2.2019 and to direct the learned II Additional District Judge to take O.S.No.6 of 2017 on file and dispose of the same on merits along with the suit in O.S.No.21 of 2019 in accordance with law.

2. The case of the petitioners is as hereunder :

(i) One Mrs.K.Varalakshmi and one Mr.K.Nandagopal, who are none other than mother and son, acquired the properties by virtue of two registered sale deeds namely Doc.Nos.1625 and 1626 of 1996 dated 22.4.1996 on the file of the Sub-Registrar, Reddiarpalayam from their vendors namely one Mr.S.Ranganathan and one Mr.S. Datchinamurthy. From the date of purchase, the said Mrs.K.Varalakshmi and the said Mr.K.Nandagopal were in peaceful possession and enjoyment of the same.

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(ii) The husband of the said Mrs.Varalakshmi one Mr.Kannaiah

Chettiar died on 25.1.1994 leaving behind his wife the said Mrs.Varalakshmi, two sons namely the third respondent herein and the said Mr.K.Nandagopal and two daughters, who are none other than respondents 2 and 4 herein. The third respondent herein is the first son of the said Mrs.Varalakshmi. The said Mrs.Varalakshmi died on 27.8.2002. The second son of the said Mrs.Varalakshmi, namely Mr.K. Nandagopal died on 19.9.2016. The wife of the second son of the said Mrs.Varalakshmi, Mrs.M.Meerabai (a) Vijayakumari died on 27.12.2018. During her life time, the said Mrs.M.Meerabai (a) Vijayakumari executed a registered Will dated 12.4.2017 in favour of the petitioners herein, who are none other than her own brother's sons.

(iii) During the life time of the said Mr.K.Nandagopal, he purchased the properties from his own earnings and savings jointly in the name of his mother, the said Mrs.Varalakshmi also. Thus, the said Mrs.Meerabai (a) Vijayakumari is having 62.5% of the share equivalent to 5/8th share of the total properties covered under the two registered sale deeds. The father of the said Mr.Nandagopal was having huge debt during his life time, became



very sick and most of his earnings were expended towards the marriage of respondents 2 and 4 herein.

(iv) The third respondent herein did not contribute anything to the common share of the family income. Soon after the marriage, he started to live with his wife separately. Though the third respondent was a bank employee, for the reasons best known to him, he was relieved from the services without any terminal benefit.

(v) In the meanwhile, the second respondent herein filed a suit in O.S.No.6 of 2017 on the file of the II Additional District Court, Puducherry for passing a preliminary decree for partition of the suit schedule properties into four equal shares by metes and bounds and allot one such share to the second respondent herein, for delivery of possession and for a permanent injunction. The said suit was filed in collusion and connivance with respondents 3 and 4 herein. Only during the pendency of the civil suit, the Will dated 12.4.2017 was executed in favour of the petitioners.

(vi) During the pendency of the said civil suit, the said Mrs.Meerabai (a) Vijayakumari died on 27.12.2018. After her demise, the petitioners herein filed impleading applications in the said suit. However, the same



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were not numbered nor returned to the petitioners. After the demise of the said Mr.Nandagopal and during the lifetime of his wife, the said Mrs.Meerabai (a) Vijayakumari, respondents 2 to 4 never come forward to provide any help towards health and medical expenses. Rather, the father of the petitioners herein alone took great care of her till her death. Due to love and affection, the said Mrs.Meerabai (a) Vijayakumari executed the Will.

(vii) In turn, the petitioners herein filed a civil suit namely O.S.No.21 of 2019 on the file of the Principal District Court, Pondicherry against respondents 2 to 4 herein seeking a preliminary decree for partition of the schedule mentioned properties and for other reliefs. The suit in O.S.No.21 of 2019 was transferred to the file of the II Additional District Court, Puducherry to be tried along with O.S.No.6 of 2017 filed by the second respondent herein.

(viii) Respondents 2 to 4 herein have knowledge about the registered Will dated 10.4.2017 executed by the said Mrs.Meerabai (a) Vijayakumari and the said fact also reflected in the rejoinder filed the second respondent in O.S.No.6 of 2017. Further, with a view to grab the properties covered under both the suits, an application to advance the hearing in O.S.No.6 of



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2017 was filed and it was allowed and the said suit was referred to Lok Adalat, pursuant to which, an award was passed on 22.2.2019 by the first respondent herein. The impleading applications filed by the petitioners were returned on 28.2.2019 as not maintainable. Unless the award passed by the first respondent is set aside, the petitioners would be put to irreparable loss and hardship. Hence the writ petition.

3. The learned counsel for the petitioners submit that, during the pendency of the suit, the petitioners have filed an impleading petition on behalf of the second defendant-Mrs.Meerabai (a) Vijayakumari on the ground that the second defendant had already executed a Will in their favour. However, without considering the same, there was a lok adalat award in between the plaintiff and the remaining defendants, which is not sustainable. Hence, the petitioners have good ground to set aside the lok adalat award. Accordingly, he prayed for appropriate orders.

4. The learned counsel appearing for the respondents 2 to 4 submits that, the lok adalat award is only in respect of the plaintiff and the



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defendants 1 and 3 therein, not in respect of the second defendant-

Mrs.Meerabai (a) Vijayakumari. Hence, the claim made by the petitioners is not sustainable, since there is no lok adalat award as against the second defendant's properties. Accordingly, he prays for dismissal of the writ petition.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case and a perusal of the lok adalat award reveals that, the lok adalat award is only in between the plaintiff and the defendants 1 and 3 therein, who are the respondents 2 to 4 herein, not in respect of the second defendant. The petitioners have filed the present writ petition solely on the ground that, the second defendant already executed a Will in their favour. In fact, the second defendant's property was not included in the lok adalat award and the lok adalat award is only in respect of the remaining defendants 1 and 3, who are alive on the date of lok adalat award. Hence, the prayer sought for by the petitioners cannot be granted and the writ petition is liable to be dismissed.



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M.DHANDAPANI,J.,

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7. Accordingly, the writ petition is dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

06.04.2023
(2/2)

Index : Yes (or) No
Speaking order (or) Non-speaking order
Neutral Citation : Yes (or) No
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To

The Presiding Officer, Lok Adalat at Puducherry, Puducherry.

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and
W.M.P.No.10570 of 2019