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W.P.No.28772 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.28772 of 2022 &
W.M.P.No.28061 of 2022

D.Kamalanathan
Petitioner

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Vs.

1.The District Collector,
Tiruppur District, Tiruppur.

2.The Sub Registrar,
Dharapuram, Tiruppur District.

3.S.Karunakaran

4.Bagyam

5.Mallika

6.P.Sivakumar

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Declaration to declare the Lok Adalat case No.77/2022, dated 08.04.2022 made in O.S.No.354 of 2021 on the file of the Sub Court, Dharapuram and consequential registration of sale deed by the second respondent in Doc.No.7537/2022, dated 15.07.2022 as null and void and do not bind the petitioner.



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For Petitioner : Mr.N.Palanikumar
For Respondents 1 & 2 : Mr.D.Ravichander
Special Government Pleader
For Respondents 3 to 6 : Mr.M.Vijayan,
for M/s.Karan and Uday

ORDER

The writ of declaration has been instituted to declare the Lok Adalat award dated 08.04.2022 in case No.77 of 2022 as null and void and also to declare the consequential registration of sale deed made by the second respondent in Document No.7537/2022 dated 15.07.2022 as null and void.

2. The facts in nutshell as narrated by the petitioner indicates that the writ petitioner herein is not a party to the civil suit filed by the respondents 3 to 5 in O.S.No.354 of 2021. The suit was instituted by the respondents 3 to 5 for partition of the property amongst the family members. During the pendency of the suit, the parties have compromised and presented a settlement memo before the Lok Adalat and obtained an award in Lok Adalat case No.77/2022. The said Lok Adalat award was registered before the Sub Registrar, Dharapuram, Tiruppur District. The very next day of the date of registration, the respondents 3 to 5 have alienated the subject



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property in favour of the respondent 6.

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3. Drawing inference from the facts and the conduct of the respondents 3 to 5, the learned counsel for the petitioner reiterated that the property belongs to him was dealt with behind his back for personal gains and therefore, the Lok Adalat award and the sequential documents are to be set aside.

4. The learned counsel for the petitioner drew the attention of this Court that the writ petitioner Kamalanathan instituted a suit in O.S.No.195/2018 on the file of the District Court, Dharapuram for declaration of title and for permanent injunction and an ex parte decree was passed in the said suit, after service of notice. The respondents 3 to 5 were made parties in the said civil suit instituted by the petitioner. The respondents 3 to 5 have filed a petition to set aside the ex parte decree which was also dismissed. Thereafter, the respondents 3 to 5 preferred an appeal suit which is pending.

5. When the suit which was instituted by the writ petitioner is pending, the respondents 3 to 5 have filed a partition suit in



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O.S.No.354/2021 after a lapse of three years from the first suit instituted by the petitioner. In the said suit, the respondents 3 to 5 were entered into a compromise and obtained Lok Adalat award and registered the same and transferred the property in favour of the sixth respondent

6. The learned counsel appearing on behalf of the respondents 3 to 5 raised an objection by stating that the respondents 3 to 5 derived the title of the subject property from one Gopalakrishnan in the year 1985. Therefore, the respondents 3 to 5 are the owners and rightfully they have transferred the property by compromising the civil suit instituted for partition.

7. May that as if be, the way in which the property transferred by the respondents 3 to 5 certainly raises a doubt. When the petitioner has instituted a suit for declaration of title and permanent injunction in O.S.No.195 of 2018 and an ex parte decree was passed, against which an appeal suit was filed, which is pending, the respondents 3 to 5 have separately filed partition suit in O.S.No.354 of 2021, after a lapse of 3 years and compromised the issue and obtained an award from the Lok Adalat and thereafter, register the same and the very next day, transferred the property in favour of the sixth respondent.



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8. Sequence of transaction and the manner in which the matter was compromised and settled before the Lok Adalat raises a serious doubt and therefore, further enquiry is required in these aspects.

9. High Court cannot conduct a roving enquiry in such title disputes between the parties in a writ proceeding under Article 226 of the Constitution of India.

10. In considering the complex nature of facts and circumstances, it is preferable that the parties are allowed to contest the civil suits and establish their title or ownership or otherwise in the manner known to law. The Lok Adalat Award obtained behind the back of the petitioner cannot be allowed to operate against him, which would cause prejudice. Contrarily, the parties may be permitted to contest their case on merits based on the documents and evidences available on records.

11. In view of the facts and circumstances, the impugned award dated 08.04.2022 passed in Lok Adalat Case No.77 of 2022 and the sale deed in Doc.No.7537 of 2022 dated 15.07.2022 are declared as null and



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void. In view of the serious doubt regarding the nature and sequence of transactions made by the respondents 3 to 5, the civil suit instituted by the respondents 3 to 5 in O.S.No.354/2021 shall stand restored on the file of the Sub Court Dharapuram.

12. The parties are at liberty to adjudicate their civil rights before the Court concerned for appropriate remedy. The respondents 3 to 5 is also at liberty to initiate steps for the purpose of tagging the other appeals or suits if any pending for joint trial in order to avoid any further inconsistency.

13. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

26.07.2023

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Index : Yes
Speaking Order
Neutral Citation : Yes



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To

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Tiruppur District, Tiruppur.
- 2.The Sub Registrar,
Dharapuram, Tiruppur District.



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S.M.SUBRAMANIAM. J.,

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