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C.R.P.No.4773 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

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1. Janaki Ammal
 2. S.R.Chandran
rep. by his power agent
Mrs.Vasavi Radhakrishnan
 3. Kalavathi Ramachandran
 4. Vasavi Radhakrishnan
 5. Uma Sankar
rep. by her power agent
Kalavathi Ramachandran
 6. Banu Ramasamy
- ... Petitioners

-Vs-

1. Amudha
 2. Muthulakshmi
 3. Suganthi
 4. Sheela
 5. Vanitha
 6. Pazhani
 7. Senthil Sundaram
- ... Respondents



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Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Award dated 18.11.2021 passed in O.S.No. 271 of 2021 passed by the Lok Adhalat and consequently declare the judgment and decree dated 01.12.2021 in O.S.No.271 of 2021 on the file of Principal District Court, Cuddalore and its subsequent registration before the SRO, Pudupettai as document No.961 of 2021 as null and void.

For Petitioners : Mr.K.Moorthy

For Respondents : Mr.R.Sunil Kumar for R1

Mr. S.R.Varun Karthik
for R2 to R7

ORDER

Challenging the impugned award passed in O.S.No.271 of 2021 passed by the Lok Adhalat and consequently declare the judgment and decree dated 01.12.2021 in O.S.No.271 of 2021 on the file of Principal District Court, Cuddalore and its subsequent registration before the SRO, Pudupettai as document No.961 of 2021 as null and void.



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2. The Revision Petitioners are third parties to the suit in O.S.No.271 of 2021. The said suit was filed by the 1st respondent/plaintiff against the respondents 2 to 7, who are defendants in that suit seeking for the relief of specific performance and on the first hearing itself, all the defendants have consented for a settlement decree and the same was recorded by Lok Adalat on 18.11.2021. As per the Lok Adalat award, the suit property was granted in favour of plaintiff and thereafter, she perfected title. But, in fact, the Revision Petitioners are the original owners of suit property, more particularly, the suit properties are belong to one Duraisamy Kanabadigal and his son Sri Kumar Iyyar, who purchased the properties through various sale deeds. Subsequently, both Duraisamy Kanabadigal and Sri Kumar Iyyar died leaving behind plaintiff and one Ravi as legal heirs. The Revision Petitioners are the legal heir of deceased Ravi and they are original owners, but behind their back, the plaintiff obtained a fraudulent decree by invoking Lok Adalat proceedings in the suit in O.S.No.271 of 2021. Aggrieved over the same, the Revision Petitioners/third parties preferred this Civil Revision Petition.



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3. On perusal of records, it reveals that the 1st respondent/plaintiff filed a suit in O.S.No. 271 of 2021 before the Principal District Court, Cuddalore praying for the relief of specific performance against defendants 1 to 6, who are the respondents 2 to 7 herein. In that suit, Survey No. 1 measuring an extent of 7.20 cents is shown as schedule of property and she prayed for specific performance as per the contract dated 01.09.2019. Based on that, she sought a direction directing the defendants to execute the sale deed. Notice served on the defendants and they have entered their appearance. They have consented the decree and accordingly, the matter was referred to Lok Adalat and a settlement memo was recorded in the Lok Adalat. As per the terms of compromise, the award was passed by the Lok Adalat. On perusal of award passed by Lok Adalat. it seems that all the defendants in the suit received a sum of Rs.15,00,000/- as advance amount in respect of suit property on 01.09.2019 and thereafter, they have received a sum of Rs.5,00,000/- on 12.04.2021 from the plaintiff and they have agreed to execute a sale deed on receipt of remaining sale consideration, thereby the award was registered before the authority concerned. Aggrieved over that award, now the Revision Petitioners, who are original owners preferred this Civil Revision Petition.



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4. Notice served on the respondents and the learned counsel for all the respondents have appeared.

5. The learned counsel for Revision Petitioners would submit that as per the sale agreement, the 1st respondent/plaintiff preferred a suit in O.S.No. 271 of 2021 and the defendants have consented for a settlement as per the terms of settlement and submitted that they have not committed any fraud as alleged by the Revision Petitioners. But, as per the plaint averments in O.S.No. 271 of 2021, as rightly pointed by the learned counsel for Revision Petitioners that there is no title deed was produced on the side of 1st respondent/plaintiff to show the title of defendants/respondents 2 to 7. Only they have relied two documents viz., Sale agreement and another one is legal notice. But on seeing the patta and other revenue records relied on by the 1st respondent/plaintiff enclosed in typed set of papers, for Survey No.1, Patta No.1 was issued in favour of one Duraisamy Kanabadigal, paternal grandfather of Revision Petitioners and the extent of property was also stated. So, as per 'A' register extract, Survey No.1 stands in the name of Revision Petitioners family. Hence, the



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Revision Petitioners are having better title than the defendants. But, the defendants have not produced any documents before the trial court nor before the Lok adalat to show that they are having right and title over the suit property. Without any proof for the title, the Lok Adalat passed an award and a compromise memo was recorded in the Lok Adalat, as such is totally erroneous one and the same is liable to be set aside. Furthermore, the Presiding Officer, who recorded the Lok Adalat award also shows their non-application of mind. They have also not perused any title deed of the parties concerned and mechanically they have recorded the settlement as such is totally erroneous and the same is liable to be set aside.

6. The learned counsel for respondents would submit that the Revision Petitioners are not entitled to proceed with two parallel proceedings, since because they have already filed a suit in O.S.No.154 of 2022, but in that suit, the Revision Petitioners seeking the relief of declaration.

7. Though the plaint prayer is relating to the suit in O.S.No.271 of 2021, as on date, the decree was passed based upon Lok Adalat award and



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the same can be set aside by invoking Art.226 of Constitution of India.

Furthermore, on perusal of records, prima facie, it reveals that without any proof for title, the award is recorded as such is erroneous one. Therefore, the objections raised by the respondents is not sustainable, since because they have not approached the court with clean hands. As rightly pointed out by the learned counsel for Revision Petitioners as well as respondents by relying the ratio laid down in the authority reported in **2018 (13) SCC 480 : 2018 (4) SCC (Civ) 243 : 2017 SCC Online SC 1053** in the case of **Bhargavi Constructions and another vs. Kothakapu Muthyam Reddy and others**, wherein the Apex Court held as follows :-

“A. Legal Aid and ADR – Lok Adalats – Award passed by Lok Adalat – challenge to – Remedy available to aggrieved party in such a cse – Held, by virtue of law laid down by Supreme Court in Jalour Singh (2008) 2 SCC 660, challenge to award of Lok Adalat can be made only by filing a Writ Petition under Art. 226 and/or Art. 227 of Constitution of India and that too on very limited grounds – Civil Suit not maintainable thereof.”



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Thus, challenging the Lok Adalat award can be made only by filing a Writ Petition under Art. 226 of Constitution of India. Hence, the aforesaid ratio is squarely applicable to the facts of the present case. Therefore, the award passed by the Lok Adalat in O.S.No.271 of 2021 is set aside and this Civil Revision Petition is allowed. Accordingly, the suit in O.S.No.271 of 2021 is restored and try along with the suit in O.S.No. 154 of 2022. No costs.

8. Furthermore, **Registry is directed to call for remarks from the learned Principal District Judge, Cuddalore as well as Presiding Officer, Lok Adalat, Cuddalore how they recorded the compromise decree without verification of title deeds and submit the report before this court.**

11.12.2023

Index : Yes/No
Speaking Order : Yes/No
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To

The Principal District Judge, Cuddalore.

T.V.THAMILSELVI, J.



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