



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9059 OF 2013

Subhash Namdev Harde .. Petitioner

Versus

Dattatraya Namdev Harde and others .. Respondents

Shri Ajay T. Kanawade and Shri Kruhna N. Bhosale, Advocates
for the Petitioner.

Mrs. Pooja V. Langhe, Advocate h/f Shri Vijay R. Langhe,
Advocate for the Respondent Nos. 1 to 8.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 22ND APRIL 2024.**

FINAL ORDER :

. Heard both the sides finally.

2. This petition is directed against order dated 06.02.2011 passed below Exhibit 01 in R.C.S. No. 79 of 2001 by the learned Joint Civil Judge Junior Division, Newasa in the capacity of member of panel of Lok Adalat. By way of impugned order, suit was decreed in terms of compromise Exhibit 11, after verifying the contents.

3. Parties are related intere-se. The respondent No. 1 filed suit R.C.S. No. 79 of 2011 for partition and separate possession against the petitioner and other respondents. The petitioner is defendant No. 3 in the suit. They have settled the dispute by

entering into terms of settlement at Exhibit 11. Matter was placed in Lok Adalat and ultimately disposed of by the impugned order.

4. Learned counsel for the petitioner submits that there was no free will on the part of his client to settle the matter amicably. His consent was obtained by threat and undue influence. As per clause No. 5 of the terms of settlement he was not paid agreed amount of Rs. 7,50,000/- in lieu of his share which was relinquished. It is further submitted that fraud is being played by the respondents in securing terms of settlement on 06.02.2011.

5. Learned counsel for the respondents opposes the submissions of the petitioner. She submits that there is delay of about two years in preferring writ petition, which is unexplained. It is further submitted that all the parties were present before the Lok Adalat on 06.02.2011 and were identified by their respective counsels. Contents of settlement deed were read over and explained to the parties. After following due procedure of law impugned order was passed. She would further submit that petitioner did not raise any grievance or made any complaint to any other authority. Only grievance in respect of non compliance of clause No. 5 of the settlement deed is raised in the petition for the first time. Grievance made in the present petition is denied and has no merit.

6. Learned counsel for the respondents seeks to rely upon judgment rendered by this Court in the matter of **Chief Officer, Municipal Council, Georai, Dist. Beed Vs. Santosh Wamanrao Mote decided on 17.01.2009 in Writ Petition No. 5252 of 2008** and the judgment of the Supreme Court in the matter of Banwarilal Vs. Smt. Chando Devi (Through L.Rs.) and another reported in *1993 (01) Mh.L.J. 773*.

7. Having heard both sides, it reveals that parties are related to each others and well acquainted inter-se. Suit R.C.S. No. 79 of 2011 filed by the respondent No. 1 was proposed to be compromised. Parties arrived at compromise as per settlement at Exhibit 11. It reveals that all the parties have signed on Exhibit 11. Petitioner who is defendant No. 3 has also signed on each page of settlement deed. Before Maha Lok Adalat, the parties were present along with their counsels. Contents of compromise were read over and explained to them. Thereafter panel of Lok Adalat proceeded to pass order dated 06.02.2011. Petitioner had opportunity to agitate the grievance before panel of Lok Adalat. He was present along with his lawyer at the relevant time. He is signatory on the compromise deed Exhibit 11.

8. Petitioner raised grievance of non compliance of clause No. 5 of the deed of settlement for the first time on 07.05.2013 vide present petition. The laches of more than two years have not been explained in any manner in the petition. During this interregnum period of two years no complaint or grievance is

made by the petitioner. It is not permissible to entertain grievance after considerable span of time. Learned counsel for the respondents is justified in relying upon the judgment rendered by this Court in the matter of **Chief Officer, Municipal Council, Georai, Dist. Beed Vs. Santosh Wamanrao Mote** (supra). In that matter also, matter was settled in the Lok Adalat and it was sought to be reopened after three years. The delay was found to be abnormal. I also propose to follow the same.

9. Considering manner in which impugned order was passed on 06.02.2011, I am of the considered view that due procedure was followed. I have already recorded that the petitioner had opportunity to raise grievance either before the Lok Adalat or immediately thereafter. He is estopped from agitating the grievance that there was no free will and he was paid only Rs. 4,50,000/- out of agreed amount of Rs. 7,50,000/-. The grievance raised by the petitioner in ground Nos. (i), (vi) and (vii) involve disputed questions of facts. That is also one of the reasons why I am not inclined to exercise the jurisdiction.

10. Reliance placed by the learned counsel for respondents on the judgment of the Supreme Court in the matter of **Banwarilal Vs. Smt. Chando Devi (Through L.Rs.) and another** (supra) is misplaced because that matter was not arising out any order passed in Lok Adalat.

11. For the reasons stated above, there is no merit in the writ petition. Writ petition is dismissed.

[SHAILESH P. BRAHME, J.]

bsb/April 24