



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CIVIL WRIT PETITION NO. 7178 OF 2023

Ajinkya Rajendra Jorvekar ...Petitioner

**Versus**

1. Aditya Rajendra Jorvekar

2. Meena Rajendra Jorvekar ...Respondents

WITH

CIVIL WRIT PETITION NO. 12167 OF 2023

1. Aditya Rajendra Jorvekar ...Petitioner

2. Meena Rajendra Jorvekar

**Versus**

Ajinkya Rajendra Jorvekar ...Respondent

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Mr. K. N. Shermale, Advocate for Petitioners in  
WP/7178/2023 & for Respondent in WP/12167/2023

Mr. H. U. Dhage, Advocate for Respondents in  
WP/7178/2023 & for Petitioners in WP/12167/2023

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CORAM : R.M. JOSHI, J.

RESERVED ON : JULY 23, 2024  
PRONOUNCED ON : JULY 30, 2024

ORDER :

1. By consent of both sides, these Petitions are  
heard together.

2. In Writ Petition No. 12167/2023 Petitioners are Defendants and Respondent is Plaintiff in RCS No. 264/2023. Being aggrieved by rejection of application Exh. 29, this Petition is filed. Whereas Original Defendant No. 2 in said suit filed Writ Petition No. 7178/2023 taking exception to order dated 12.11.2022 passed by Lak Adalat in RCS No. 964/2022 on the ground of fraud.

3. Parties are referred to as Aditya, Meena and Ajinkya for the sake of brevity.

4. The facts which led to the filing of these Petitions can be narrated, in nutshell, as under:

RCS No. 964/2022 was filed by Aditya for partition and separation of his share in the ancestral joint family properties. It is his contention that after filing of the suit, there was a compromise arrived at between him and Defendants i.e., Meena and Ajinkya. Compromise pursis was duly signed by parties and verified by their respective Advocates. By consent of both sides, the said suit was kept before the Lok Adalat for passing award. By order dated 12.11.2022 award came to be passed in Lok Adalat in terms of

compromise pursis. Ajinkya, Defendant No.2 therein, being aggrieved by the said award filed RCS No. 264/2023 challenging award passed by Lok Adalat on the ground of fraud being played upon him. In this suit, Aditya and Meena i.e., Defendants therein filed application for rejection of plaint vide Exh. 29. This application was opposed by the Ajinkya by filing say at Exh. 31. Learned Trial Court rejecting application under Order VII, Rule 11 of Code of Civil Procedure by holding that the suit is maintainable against award passed by the Lok Adalat. Hence, challenging this order present Petition bearing no. 12167/2023 is filed. Ajinkya not only had filed RCS No. 264/2023 challenging the said award passed by the Lok Adalat but also filed Writ Petition No. 7178/2023 challenging very same award.

5. Learned Counsel for Ajinkya submits that the suit for challenging award passed by Lok Adalat is maintainable and in view of reasoned order passed by the Trial Court, the same does not deserve interference. It is his further submission that Hon'ble Supreme Court in case of K. Srinivasappa and Others vs.

**M. Mallamma and Others** decided on 18.05.2022 has held that the suit is maintainable against the award passed in Lok Adalat.

6. This submission is opposed by learned Advocate appearing on behalf of Aditya and Meena. It is his contention that the order passed by the Trial Court is contrary to the judgment of the Hon'ble Supreme Court in case of **Bhargavi Constructions and Anr vs. Kothakapu Muthyam Reddy and Others, (2018) 13 SCC 480** & is not maintainable.

7. In order to appreciate the rival submissions, it would be necessary to take into consideration the relevant provisions of the Legal Services Authority Act, 1987 (for short 'the Act'). Section 20 of the Act empowers Lok Adalat to pass an award. Section 22(e)(4) provides that every award passed in Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceedings. The provisions of this Act, therefore, specifically bars filing of a suit challenging the award passed in Lok Adalat, so also in any application or even in execution proceedings.

8. Hon'ble Supreme Court in case of Bhargavi Constructions (supra) has held that suit challenging award on the ground of same being obtained by fraud or misrepresentation is not maintainable and only Writ Petition is maintainable that oo on limited grounds. The Hon'ble Supreme Court has taken into consideration the judgment of the three judges bench in case of **State of Punjab, [2008 ALL SCR 692]** and observed thus:

*25. The question arose before this Court (Three Judge Bench) in the case of **State of Punjab [2008 ALL SCR 692]** as to what is the remedy available to the person aggrieved of the award passed by the Lok Adalat Under Section 20 of the Act. In that case, the award was passed by the Lok Adalat which had resulted in disposal of the appeal pending before the High Court relating to a claim case arising out of Motor Vehicle Act. One party to the appeal felt aggrieved of the Award and, therefore, questioned its legality and correctness by filing a writ petition Under Article 226/227 of the Constitution of India. The High Court dismissed the writ petition holding it to be not maintainable. The aggrieved party, therefore, filed an appeal by way of special leave before this Court. This Court, after examining the scheme of the Act allowed the appeal and set aside the order of the High Court. This Court held that the High Court was not right in dismissing the writ petition as not maintainable. It was held that the only*

remedy available with the aggrieved person was to challenge the award of the Lok Adalat by filing a writ petition Under Article 226 or/and 227 of the Constitution of India in the High Court and that too on very limited grounds. The case was accordingly remanded to the High Court for deciding the writ petition filed by the aggrieved person on its merits in accordance with law.

26. This is what Their Lordships held in Para 12:

12. It is true that where an award is made by the Lok Adalat in terms of a settlement arrived at between the parties (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition Under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the Respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not

*agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition Under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.*

*27. In our considered view, the aforesaid law laid down by this Court is binding on all the Courts in the country by virtue of mandate of Article 141 of the Constitution. This Court, in no uncertain terms, has laid down that challenge to the award of Lok Adalat can be done only by filing a writ petition Under Article 226 and/or Article 227 of the Constitution of India in the High Court and that too on very limited grounds.*

*28. In the light of clear pronouncement of the law by this Court, we are of the opinion that the only remedy available to the aggrieved person (Respondents herein/Plaintiffs) was to file a writ petition Under Article 226 and/or 227 of the Constitution of India in the High Court for challenging the award dated 22.08.2007 passed by the Lok Adalat. It was then for the writ Court to decide as to whether any ground was made out by the writ Petitioners for quashing the award and, if so, whether those grounds are sufficient for its quashing.*

*29. The High Court was, therefore, not right in by passing the law laid down by this Court on the ground that the suit can*

*be filed to challenge the award, if the challenge is founded on the allegations of fraud. In our opinion, it was not correct approach of the High Court to deal with the issue in question to which we do not concur.*

9. Thus, this *ration decidendi* of this judgment is that the only remedy available with the aggrieved person by the award passed by the Lok Adalat is to challenge the same by filing a Writ Petition under Articles 226 and 227 of the Constitution of India in High Court and that too on very limited grounds.

10. Though this judgment was cited before Trial Court. However, in casual manner the said Court has refused to follow the said judgment. It is observed therein that "*In case of Bhargavi Construction and Anr. Vs. Kothakapu Muthyam Reddy and Ors., [2017 AIR SC 4428], in which it is held that, challenge to the award of Lak Adalat can be done only by filing a writ petition under Article 226 and/or Article 227 of the Constitution of India in the High Court and that too on very limited ground. I have read it carefully, however, facts stated in above case law and facts before me are different. Hence, the principle laid down in above case*

*law is not useful to the present defendants."* It needs to be recorded that in the case before the Trial Court suit has been filed with averment that the award has been obtained in the Lok Adalat by fraud. Thus, the facts appearing in this suit are not different than the judgment of Hon'ble Supreme Court. Such observations made by the Trial Court are highly objectionable and the same are in derogation of the judicial propriety. No Court is permitted to refuse to follow binding precedent with casual observations that facts in both case differ.

11. Impugned order, therefore, is passed not only in ignorance of provisions of Section 22(e)(4) of the Act which bars filing of any suit against any award passed in Lok Adalat but also in disobedience of the judgment of Hon'ble Supreme Court and as such, the order cannot sustain.

12. Though learned Counsel for Ajinkya has sought to argue that the Hon'ble Supreme Court in a subsequent judgment in case of K. Srinivasappa (supra) has held that the suit is maintainable against the award passed by the Lok Adalat. However, careful perusal of the said

judgment does not show that any issue was raised before the Hon'ble Supreme Court as to whether the suit or Writ Petition would be maintainable against the award passed by the Lok Adalat. In fact in paragraph 29 of the judgment it is observed thus:

*29. While we recognise that a Writ Petition would be maintainable against an award of the Lok Adalat, especially when such writ petition has been filed alleging fraud in the manner of obtaining the award of compromise, a writ court cannot, in a casual manner, de hors any reasoning, set aside the order of the Lok Adalat. The award of a Lok Adalat cannot be reversed or set aside without setting aside the facts recorded in such award as being fraudulent arrived at.*

It is, therefore, clear that said judgment does not lay down the law that the suit is maintainable against the award passed by the Lok Adalat on the ground of fraud. Apart from this, the judgment of three judges bench in case of State of Punjab (supra) referred in the judgment of Bhargavi Constructions (supra) needs to be followed.

13. As a result of the above discussion, the impugned order dated 25.08.2023 passed by the Trial

Court in RCS No. 264/2023 is not sustainable. It is held that the said suit is clearly barred by law in view of provisions of Act and binding precedent of the Hon'ble Supreme Court. In view of above discussion, Writ Petition No. 12167/2023 stands allowed. Impugned order is set aside. RCS No. 264/2023 is held to be not maintainable in law and hence, application no. 29 filed under Order VII, Rule 11 stands allowed. Plaint stands rejected.

14. This Court records displeasure about the manner in which learned Trial Court has refused to follow binding precedent of Hon'ble Supreme Court.

15. The corollary of the above discussion is that the Petition No. 7178/2023 is maintainable against the award passed by the Lok Adalat on the alleged ground of fraud being played while obtaining impugned order passed by the Lok Adalat in RCS No. 964/2022. It is, therefore, held that this Petition is maintainable. Petition to proceed further in accordance with law.

(R. M. JOSHI, J.)

Malani