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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3743 OF 2021**

Madhukar Baburao Shete

Age : 75 years, Occ : Agri

R/o – 1551/4/28, Shikshan Maharshi

U. J. Mali Guruji CHS, Near Rotary Club

Subhash Nagar, At post Barshi

Tal Barshi, Dist. Solapur

..... Petitioner
(Orig. Defendant)

Versus

1. Yogesh Trimbak Shete

Age : 42 years, Occ : Agri

R/o – Post Uplai Thonge

Tal: Barshi, Dist-Solapur

..... Respondent
(Orig. Plaintiff)

2. Maharashtra State Legal Services

Authority through Hon'ble Member

Secretary, R/at – 105, PWD Building

High Court, Bombay-01

Mr. Sujeet R. Bugade for the Petitioner.

Mr. Jay Patil i/b. Ms. Barsha Parulekar for Respondent No. 1.

Mr. Vishal Kanade for Respondent No. 2 – MSLSA.

CORAM: GAURI GODSE J

RESERVED ON: 10th MAY 2024

PRONOUNCED ON: 20th AUGUST 2024

RAJESHWARI
RAMESH
PILLAI

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JUDGMENT:

1. Rule. Rule made returnable forthwith. Mr. Patil waives service for respondent no. 1 (“respondent”), and Mr. Kanade waives service for respondent no. 2. In view of the order dated 8th May 2024, the petition is taken up for final disposal.

FACTS IN BRIEF:

2. This petition is filed by the original defendant to challenge the Award passed by the Lok Adalat disposing of the suit in terms of the settlement arrived at between the parties before the Lok Adalat. The petitioner challenges the Award on the ground that he never intended to settle the dispute and was unaware that his signature was obtained on the settlement terms.

3. Considering the controversy involved in the petition, by order dated 9th January 2024, the petitioner was permitted to amend the petition to add Maharashtra State Legal Services Authority (“MSLSA”) as a party respondent in the petition.

4. The respondent filed a Regular Civil Suit No. 781 of 2017 in the Civil Court at Barshi. The suit was filed on 1st September 2017 and

was registered as a Regular Civil Suit on 4th September 2017. It is the petitioner's case that he had never received any suit summons, and there was no reference made as contemplated under Section 20 of the Legal Services Authorities Act, 1987 ("said Act"). The learned counsel for the petitioner submitted that, as instructed by the original plaintiff, the petitioner appeared before the Lok Adalat on 9th September 2017, and the settlement award was passed.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

5. Learned counsel for the petitioner submitted that the petitioner is a senior citizen with 95% physical disability. The petitioner's father had three sons and three daughters. There was partition during the lifetime of his father, and the same was recorded in the revenue records by way of Mutation Entry No. 566. Accordingly, separate entries in the name of the co-sharers were made in the revenue records, and the petitioner and his brother started cultivating their own land separately. In the year 2010, the petitioner's brother Trimbak expired, and the names of his widow, son and two daughters were entered in the revenue records. Trimbak's son is the plaintiff in the present matter. It is the petitioner's case that Trimbak's son, i.e.

respondent herein, filed a false claim against the petitioner by way of aforesaid RCS No. 781 of 2017.

6. Learned counsel for the petitioner submitted that the respondent brought the petitioner before the Lok Adalat panel, and under the respondent's undue influence, the petitioner signed the compromise pursis based on which the suit stood disposed of before the Lok Adalat. Learned counsel for the petitioner submitted that the petitioner was unaware that his signature was taken on the compromise terms to be filed before the Lok Adalat.

7. Learned counsel for the petitioner further submitted that without making a valid reference as required under Section 20 of the said Act, the panel of Lok Adalat would not get any jurisdiction to dispose of the suit. In the present case, the suit summons was not served upon the petitioner, and without following the mandatory procedure under Section 20 of the said Act, the suit was listed before the Lok Adalat. Learned counsel for the petitioner thus submitted that the very object of the said Act is frustrated in view of the procedure followed in the present case. Hence, the award passed by the Lok Adalat is in violation of the principles of natural justice and against the object of the

said Act.

8. In support of his submissions, the learned counsel for the petitioner relied upon the decision of this Court in the case of ***Namdeo Hambira Babar and Others vs. Gajanan Bhauso Babar and Others***¹. He submitted that this Court, in the said decision, held that the procedure as prescribed under Section 20 of the said Act regarding making a reference to the Lok Adalat is mandatory. He submitted that in view of the legal principles settled by this Court, it is obligatory on the part of the Lok Adalat to return the case before the regular Court in the event there is doubt about the legality of the settlement. He thus submits that the reference to the Lok Adalat is therefore required to be made in accordance with sub-section (1) of Section 20 of the said Act to enable the Lok Adalat to take cognizance of the case listed before the Lok Adalat. Thus, the very purpose of making a reference to the Lok Adalat is frustrated in the present case, and the suit was illegally disposed of before the Lok Adalat without verifying the legality of the terms of the settlement.

9. Learned counsel for the petitioner thus submitted that the award

¹ 2015 (1) Mh. L. J. 932

passed by the Lok Adalat is contrary to the provisions of the said Act and thus requires to be quashed and set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

10. Learned counsel for the respondent / original plaintiff supported the Award passed by the Lok Adalat. He submitted that the plaint in RCS No. 781 of 2017 was presented on 1st September 2017, and the same was registered on 4th September 2017. The order recorded at Exhibit -1 on 4th September 2017 shows that the suit was transferred to the 3rd Joint Civil Judge Junior Division (“Joint CJJD”) Barshi. On the same day, the summons was issued and was made returnable on 9th September 2017, which happens to be the scheduled date of the Lok Adalat. The endorsement on Exhibit-1 recording issuing summons to the defendant (petitioner) shows the words “LA”, which indicates that the summons was made returnable before the Lok Adalat on 9th September 2017, which was a Court non-working Saturday; hence, it is clear that summons was issued for the purpose of making a reference before the Lok Adalat and that the summons was not made returnable before the regular Court. Hence, learned counsel for the respondent submitted that though there is no explicit order recorded

for making a reference to the Lok Adalat, the order dated 4th September 2017 of issuing summons being made returnable on the scheduled date of the Lok Adalat is impliedly an order of reference to the Lok Adalat as contemplated under Section 20 (1).

11. Learned counsel for the respondent further submitted that Section 19(5)(ii) confers powers on the Lok Adalat to take up any matter which falls within the jurisdiction of any Court for which the Lok Adalat is organized. He submitted that it is a matter of record that the said suit between the parties was pending before the Civil Judge, Junior Division, Barshi, and in terms of the returnable date of 9th September 2017, the suit was listed before the Lok Adalat. He further submitted that the respondent and the petitioner both voluntarily appeared before the Lok Adalat and signed the compromise pursis, which the respective Advocates also endorsed. The very fact that the petitioner appeared before the Lok Adalat indicates that he intended to arrive at an amicable settlement and hence signed the terms in the compromise pursis. He thus submitted that the compromise pursis is a genuine settlement of the dispute between the parties. He submitted that the Award passed before the Lok Adalat creates a substantive

right in favour of the respondent. Hence, even if any irregularity in making a reference is found, the Award cannot be set aside on that basis. The petitioner signed and executed the compromise pursis and also executed the notarised affidavit on 31st August 2017, i.e. one day prior to the filing of the suit. Hence, based on the Award, the name of the respondent was also recorded in the revenue records with respect to the suit property by way of Mutation Entry No. 6725, made in February 2018. The learned counsel for the respondent submitted that the petitioner never objected to the said revenue entry; however, after a lapse of more than three years, he filed the present petition challenging the award passed by Lok Adalat.

12. Learned counsel for the respondent submitted that the petitioner had taken a contrary stand by stating that he was compelled to sign the notarised agreement dated 31st August 2017 and further by stating that on 9th September 2017, he attended the Lok Adalat and was made to sign by the respondent on the draft of the compromise pursis by pressurizing him. Learned counsel for the respondent submitted that the ground of challenge raised by the petitioner amounts to making allegations of fraud and coercion. He submitted that in view of the

conduct of the petitioner in signing the notarised agreement on 31st August 2017 and raising a grievance after almost three years shows the malafide intention of the petitioner in making false allegations against the respondent. He submitted that the petitioner is an educated person and has retired as Registrar of a College. Hence, the petitioner's case is unbelievable that he signed the compromise pursis under the influence of the respondent without knowing the contents of the same. He submits that the disability certificate relied upon by the petitioner is a physical disability, which only affects the mobility of the petitioner. However, the petitioner is mentally sound and an educated person to well understand the case listed before Lok Adalat and the execution of the compromise pursis.

13. Learned counsel for the respondent submitted that the law laid down by this Court in the case of ***Namdeo Hambira Babar*** is of no assistance to the submissions made on behalf of the petitioner. The facts of the said case and the facts of the present matter are completely different. Hence, the legal principles laid down in the said decision are not applicable to the facts of the present case. In the case of ***Namdeo Hambira Babar***, the order passed by the Lok Adalat was

inconsistent and contrary to the order passed by the Trial court. Hence, it was held that without verifying the papers from the revenue proceedings and without verifying the legality of the terms of settlement the case could not have been settled by the Lok Adalat. He submitted that the legal principles laid down in the said decision are not of any assistance to the arguments raised on behalf of the petitioner.

14. Learned counsel for the respondent relied upon the decision of the Hon'ble Supreme Court in the case of ***K. Srinivasappa and Others Vs M. Mallamma and Others***². He submitted that the petitioner's arguments amount to making allegations of coercion, undue influence and fraud. Hence, on the said grounds, if the petitioner seeks to set aside the award passed by the Lok Adalat, the petitioner is under an obligation to prove the allegations by leading evidence. Hence, in the absence of any proof to support the allegations, the award passed by the Lok Adalat cannot be interfered with in the present petition filed under Article 227 of the Constitution of India.

15. Learned counsel for the respondent relied upon the affidavit in

² AIR 2022 Supreme Court 2381

reply filed on behalf of the respondent opposing the allegations made by the petitioner. He, in particular, relied upon paragraph 6 of the affidavit in reply to contend that substantive rights have been created in favour of the respondent in terms of the award passed by the Lok Adalat. The learned counsel for the respondent submitted that the petition also suffers from delay and laches. He thus submitted that this is not a fit case to exercise powers under Article 227 of the Constitution of India. He thus prayed for the dismissal of the present petition.

SUBMISSIONS ON BEHALF OF MSLSA:

16. Learned counsel appearing for the MSLSA pointed out the relevant provisions of the said Act. He submitted that the Lok Adalat can take cognizance of cases in different contingencies. He submitted that all the contingencies indicated under Section 20 would mandatorily require a reference to be made by the Court. Learned counsel submitted that sub-section (5) of Section 19 provides for the jurisdiction of the Lok Adalat to determine and to arrive at a compromise or settlement between the parties to the dispute in respect of either a case pending or any matter which is falling within

the jurisdiction of the Court for which the Lok Adalat is organized. However, Section 20 of the said Act empowers Lok Adalat to take cognizance of the cases referred to in sub-section (5) of Section 19. Sub-Section (1) (i) (a) and (b) of Section 20 empowers Lok Adalat to take cognizance of the cases where either the parties thereof agree, or one of the parties makes an application to the Court. The said sub-section provides for making a reference to the Lok Adalat for settlement if the Court is prima facie satisfied that there are chances of such settlement, and on the Court being so satisfied, the Court shall make a reference of the case to the Lok Adalat. Proviso to sub-section (1) of Section 20 states that no case shall be referred to the Lok Adalat unless the Court gives an opportunity of hearing to the parties.

17. Learned counsel for MSLSA submitted that for referring a pending matter before the Lok Adalat, an order of the Court is mandatory, provided the Court is satisfied that it is an appropriate case to be referred to the Lok Adalat. He, thus, submitted that when a pending case before the Court is to be referred to the Lok Adalat, the prima facie satisfaction of the Court is necessary for passing the order of reference to the Lok Adalat. Hence, in the absence of one of the

parties, no reference can be made to Lok Adalat for a pending case. He further submitted that any case within the jurisdiction of the Court for which the Lok Adalat is organised can be brought before the Lok Adalat, provided both parties agree to it. Thus, the learned counsel for MSLSA submitted that when a pending case is to be listed before the Lok Adalat, an order of reference is mandatory subject to a prima facie observation recorded by the Court making a reference to the Lok Adalat.

CONSIDERATION OF THE FACTS OF THE CASE:

18. Considering the manner in which the case was listed before the Lok Adalat before panel no. 4 headed by 2nd Joint CJJD and Judicial Magistrate First Class ('JMFC') and considering the manner in which the suit was disposed of by the 2nd Joint CJJD and JMFC, a report was called for from the concerned Court of the 2nd Joint CJJD and JMFC, Barshi, for submitting necessary details and all the particulars regarding the order of reference as required under Section 20 of the said Act as well as the particulars of the procedure followed before the Lok Adalat organized on 9th September 2017. Accordingly, a report dated 3rd April 2024 prepared by the present 2nd Joint CJJD, Barshi,

was placed before this Court. The said report contained a copy of the Administrative Order dated 6th September 2017 passed for the formation of panels of Lok Adalat to be held on 9th September 2017.

19. A perusal of the said Administrative Order and the report shows that panel no. 4, headed by (Mrs. J. R. Raut) JMFC, was assigned to take up civil and criminal cases pending before her and the last 20 matters from the board (causelist) of 3rd Joint CJJD, Barshi. Hence, by order dated 22nd April 2024, a report from the 3rd Joint CJJD, Barshi was called. By the said order, a report containing information on whether any suit summons was issued, whether the suit was listed on the board of the 3rd Joint CJJD, Barshi and whether it was referred to the Lok Adalat as per Administrative Order dated 6th September 2017 was called for. Accordingly, a report dated 30th April 2024, prepared by the present 2nd Joint CJJD and JMFC, Barshi, was placed before this Court. Another report dated 3rd May 2024, prepared by the present In-charge 3rd Joint CJJD and JMFC, Barshi, was also placed before this Court.

20. A perusal of the first report dated 3rd April 2024 and perusal of the papers of the petition indicates that the suit was registered on 4th

September 2017. On a perusal of Exhibit-1 of the plaint annexed to the petition, it appears that on 4th September 2017, the suit was assigned to the 3rd Joint CJJD, Barshi. The order dated 4th September 2017, recorded below Exhibit-1, contains an endorsement that the suit summons is issued to the defendant to appear and answer the claim and file a written statement to settle the issues. The endorsement indicates the returnable date as 9th September 2017 with a further endorsement of the letters "LA". The two orders recorded below Exhibit-1 read thus:

"ORDER

The suit is madeover to the Court of Ld. 3rd Jt. Civil Judge, J.D. Barshi for hearing and disposal according to law.

Sd/

Date : 04/9/2017 Jt. Civil Judge, J.D. Barshi

ORDER

Issue suit summons to the defendant/s to appear & answer the claim and file written statement in their defence if any within (30) days from the date of Service of Summons and to settle the issues R/on 9/9/2017. LA

Date: /2017 3rd Jt. Civil Judge, J.D.Barshi"

21. The aforesaid noting, which refers to the letters “LA”, possibly indicates the words “Lok Adalat”. The first order, which bears a date of 4th September 2017, is seen to have been signed by the Joint CJJD, Barshi; however, the second order endorsed below the order of 4th September 2017 neither bears any date nor there is any signature of the Judge. A copy of the roznama placed on record by the learned counsel for the petitioner does not record any order issuing suit summons.

22. The report dated 3rd May 2024 referred to the Administrative Order dated 6th September 2017, which directs that the last 20 matters pending on the board of the 3rd Joint CJJD were to be listed before the panel of Sou. J. R. Raut, JMFC, Barshi. The said report encloses a copy of the board dated 9th September 2017 of the 3rd Joint Civil Judge Junior Division, Barshi and a copy of the Administrative Order dated 6th September 2017.

23. A perusal of the Administrative Order dated 6th September 2017 is signed by the Chairperson of the Taluka Legal Services Committee, Barshi, i.e. District Judge – 1 and Additional Sessions Judge, Barshi. The Administrative Order contains the formation of five panels. The

first panel was formed for the civil and criminal cases and motor accident claim applications pending before the District Judge-1 and Additional Sessions Judge, Barshi and District Judge -2, including pre-litigation cases as specified in the order. Panel No. 2 appears to have been formed to deal with the cases pending before the CJJD, Barshi, including pre-litigation cases as specified in the order. The third panel appears to have been formed to deal with the cases pending before the Joint CJSD. The fourth panel was to be headed by Mrs. J. R. Raut, JMFC Barshi, for dealing with criminal and civil cases pending before her and the last 20 civil cases from the board of 3rd Joint CJJD, Barshi. The said administrative order thus did not include the list of matters to be listed before the Lok Adalat panels.

24. However, the report dated 3rd April 2024 indicated that as per the said Administrative Order, the last 20 Civil matters pending on the board of the 3rd Joint CJJD, Barshi, were directed to be kept before panel no. 4 for disposal in the Lok Adalat. The said report further records that in view of the Administrative Order, the present suit was listed before panel no. 4 of the Lok Adalat headed by 2nd Joint CJJD, Barshi. The report further states that from the Award at Exhibit 9, it

appears that both the parties and their respective Advocates were present and signed the Award. The report further states that from Exhibit-8 and the order passed therein, it appears that both the parties and their Advocates were present, and they admitted the contents of the compromise pursis, which were read over and explained to them and the dispute was settled in the Lok Adalat. The report further states that, accordingly, the suit was disposed of as compromised in the Lok Adalat, and the order to that effect was passed at Exhibit-1 on the same day. The said report further also records that the parties had filed their address memo and vakalatnama on record and both parties were present with their respective Advocates before the Lok Adalat. The report further states that the compromise pursis is at Exhibit 8, and both parties and their Advocates, as well as the panel head and members of the Lok Adalat, signed the Award. The additional report dated 30th April 2024 states that a list of 82 matters was scheduled on the board dated 9th September 2017 of 3rd Joint CJJD, Barshi, and the last 20 matters commenced from serial no. 63 and that the present suit was listed at serial no. 69, i.e. amongst the last 20 matters.

25. Another report dated 3rd May 2024 prepared by the In-charge 3rd

Joint CJJD and JMFC states that as per the Administrative order dated 6th September 2017, the last 20 matters pending on the board of 3rd Joint CJJD, Barshi were kept before the panel of Sou J. R. Raut, JMFC, Barshi. The report further enclosed a copy of the Administrative Order and a copy of the board (causelist). The copy of the causelist dated 9th September 2017 shows that the present suit was listed at serial no.69. The cause list from serial nos. 6 to 53 is listed under the heading “summons returnable”. Matters from serial nos. 54 to 78 are listed under the heading “Lok Nyayalay”. Thus, from the causelist it appears that only serial nos. 54 to 78 were shown under the heading of “Lok Nyayalay”. The present suit was listed under the said heading at serial no. 69.

26. It is a matter of record that 9th September 2017 was a second Saturday. Thus, it was a non-working Saturday for the Court. Hence, it is not clear why the causelist of regular matters was prepared and shown as due on that day. A perusal of the printout of the roznama of the said suit shows that the entry of filing was on 1st September 2017, and the date of registration was on 4th September 2017. The list of orders of the said case shows only an order dated 9th September

2017. Roznama does not record any order of issuing suit summons. The last page of the plaint annexed as Exhibit C to the petition shows entries made below Exhibit-1. The first endorsement shows the accompaniments to Exhibit-1 to the proceedings instituted and presented on 1st September 2017 and registered on 4th September 2017. Annexures show vakalatnama, address memo and duplicate copy of the plaint along with affidavit of the plaintiff. The said annexures are seen to have been examined by the Assistant Superintendent and ordered to be registered as a Regular Civil Suit.

27. The first order recorded below Exhibit-1 shows that the suit is made over to the Court of 3rd Joint Civil Judge Junior Division for hearing and disposal. The said order is dated 4th September 2017. The order recorded below the said order is an undated and unsigned order showing the issuance of suit summons to the defendant, making it returnable on 9th September 2017 with the endorsement of letters "LA". Thereafter, there is an endorsement showing an order below Exhibit-1, which reads thus :

"ORDER BELOW EXH.1

Read order passed below exh.8. The suit is disposed of as

compromised in Lok-Adalat. The court fees be refunded as per rules.

(Sou. J. R. Raut)
2nd Jt. CJJD and JMFC Barshi and
Head of Panel No.4.

Date/-9.9.2017”

The said order is dated 9th September 2017 which shows that the suit is disposed of as compromised in Lok Adalat as per order below Exh.8. Copy of Exh.8 is annexed as Exhibit-1 to the present petition. Exh.8 is a compromise pursis which is seen to have been signed by the plaintiff and defendant and their respective Advocates. There is an endorsement on the said compromise pursis which reads thus:

“ORDER BELOW EXH.8

Both the parties are present along with their counsels. The suit is for declaration and injunction. They settled their dispute in Lok-Adalat. The compromise is read over and explained to both the parties. They admitted it, hence it is read and recorded.

(Sou. J. R. Raut)
2nd Jt. CJJD and JMFC Barshi and
Head of Panel No.4.

Date/-9.9.2017”

28. The endorsement is seen as an order below Exh.8, recording that both parties are present and have settled their dispute in Lok Adalat. It further records that the compromise is read over and explained to both parties; they admitted it, and hence, it is read and recorded. The said order below Exh.8 is seen to have been signed by Sou. J. R. Raut, 2nd Joint Civil Judge Junior Division and JMFC, Barshi and head of panel no. 4.

29. A perusal of Exh. 9 shows that the same is an award before the Lok Adalat. The said Exh. 9 appears to be in the prescribed form of the Award of the Lok Adalat. Exh. 9 shows the name of the Court that referred the case as Civil Judge Junior Division, Barshi. It further records the names of the parties and the presence of the panel, i.e., the judicial officer and two members. The heading "Award" records as follows;

"The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised matter. The following award is passed in terms of the settlement."

The endorsement below the aforesaid heading shows as follows:

“As per Exh.8”.

The entire remaining page is blank thereafter. At the end, there is an endorsement of the signatures of the parties, their respective Advocates, and the members of the panel, with the date of 9th September 2017 and the place as Barshi.

30. Thus, a perusal of the aforesaid endorsement indicates that though the compromise pursis is seen to have been signed by the parties, the same does not appear to have been verified by the Lok Adalat panel. The contents of the award reflected in the prescribed format only make an entry “as per Exh.8”. Exh.8 is a compromise pursis, which records that it is read over and explained to both parties by Sou. J. R. Raut, 2nd Jt. CJJD and JMFC Barshi and Head of Panel No. 4. Thus, it appears that the procedure required to be followed for verifying the legality of the compromise between the parties is not verified by the concerned panel of the Lok Adalat.

31. So far as the order of reference as mandatorily required under Section 20 is concerned, the entire record of the petition and the three

reports filed by the concerned Judges does not contain any such order. The endorsement made at Exhibit-1 only shows the order of issuing suit summons, which the concerned Judge does not even sign. However, the notice issuing suit summons contains an endorsement of the letters “LA” after the returnable date, which may indicate “Lok Adalat”. However, the same cannot be termed an order of reference as sought to be argued by the learned counsel for the respondent.

32. It is pertinent to note that the order issuing suit summons, as recorded below Exhibit-1, does not contain the signature of the concerned Judge. Neither of the three reports contain any particulars with regard to the order issuing suit summons or specific order for making a reference as required under Section 20. The only reliance placed in the reports seeks support on an Administrative Order passed by the Chairperson of the Taluka Legal Services Committee, Barshi. A perusal of the said Administrative Order issued by the Chairperson of the Committee contains the constitution of five panels and directions regarding the listing of cases before the respective panels. Even the Administrative Order does not refer to any Order passed by the concerned Judge under Section 20 of the said Act.

FINDINGS AND CONCLUSIONS:

33. The present case appears to have been listed before panel no. 4, headed by Smt. J. R. Raut, 2nd Joint CJJD and JMFC, Barshi, on 9th September 2017, pursuant to the Administrative Order dated 6th September 2017 passed by the Chairperson of the Taluka Legal Services Committee, Barshi. The suit appears to have been pending before the 3rd Joint CJJD, Barshi. There is neither any order passed by the Court as contemplated under sub-section (1) of Section 20 nor there is any reference made by the Committee as contemplated under sub-section (2) of Section 20. A perusal of the copy of the Award indicates that the suit is not disposed of as contemplated under sub-sections (3) and (4) of Section 20. A perusal of the Award clearly indicates that the concerned panel of the Lok Adalat has passed an Award in terms of the settlement as per Exhibit 8. A perusal of Exhibit 8 indicates that only the head of the panel, i.e. the 2nd Joint CJJD and JMFC Barshi, has passed an order recording that the parties settled the dispute in Lok Adalat. The concerned Judge further recorded that the compromise between the parties is read over and explained by her to both parties and that they admit it; hence, it is read and recorded.

Thus, it is clear that the compromise was not arrived at before the Lok Adalat panel. It appears that the parties independently signed the compromise pursis, and only the concerned Judge heading the panel read and recorded the settlement. Such procedure is not contemplated under the said Act.

34. The order passed by the learned Judge below Exhibit 8 amounts to transferring the suit to the Court. Once the suit is referred to the Lok Adalat, it has to be either settled before the Lok Adalat as contemplated under sub-section (3) of Section 20, and if not settled before the Lok Adalat, and the Lok Adalat makes no award, then it has to be returned to the Court from which the reference has been received under sub-section (1) of Section 20 for disposal in accordance with law. The aforementioned facts indicate that the award is not made by the Lok Adalat as contemplated under sub-sections (3) and (4) of Section 20. Thus, if the Award was not made by the Lok Adalat, then the suit should have been returned to the 3rd Joint CJJD, Barshi, to whom it was originally assigned and from which Court the reference before the Lok Adalat was expected to be made. Thus, in any event, the 2nd Joint CJJD and JMFC, who was heading the Lok

Adalat panel, had no jurisdiction to dispose of the suit.

LEGAL PRINCIPLES AS CONTEMPLATED UNDER THE SAID ACT:

35. The decision of the Hon'ble Division Bench of this Court in the case of ***Namdeo Babar*** held that without recording satisfaction that the case was an appropriate one to be taken cognizance by the Lok Adalat, a reference to Lok Adalat could not have been made under sub-section (1) of Section 20. The Hon'ble Division Bench observed that only for adding to the numbers of the cases disposed of by Maha Lok Adalat, such a reference cannot be made. The Hon'ble Division Bench further held that under Rule 3 of Order XXIII of CPC, a Court cannot pass a decree in terms of compromise unless the compromise is lawful; therefore, even the Lok Adalat cannot pass an Award in terms of compromise unless the compromise is lawful. Thus, it is necessary for the Lok Adalat to consider the issue of the legality of the compromise, and if the Lok Adalat has a doubt about the legality of the settlement made before it, instead of passing an Award, the case must be returned to the regular Court. It is the duty of the Lok Adalat to inquire whether the parties have understood the contents of the compromise or settlement and whether they have willingly signed.

Thus, the compromise or settlement recorded before the Lok Adalat must satisfy the same test as laid down under Rule 3 of Order XXIII of CPC.

36. The learned counsel for the respondent relied upon the decision of this Court in the case of ***Sau. Pushpa Bhutada***, to support his submissions, that the Court before which the case is pending has the power to refer the case before Lok Adalat. There cannot be any debate on the proposition that the Court is empowered under Section 20 of the said Act to refer the case to the Lok Adalat. Even under clause (b) of sub-section (2) of Section 89 of CPC, the Court can refer the dispute to the Lok Adalat in accordance with the provisions of sub-section (1) of Section 20 of the said Act. Thus, what is important is that the reference has to be made as contemplated under sub-section (1) of Section 20 of the said Act. This Court, in the decision of ***Sau. Pushpa Bhutada***, held in paragraph 4 as follows;

“4. On plain language of Section 20 it is seen that, the Court before whom the case is instituted and finding shall refer the case to the Lok Adalat for settlement, if the parties thereto agree to opt for redressal of the dispute before that forum. But when only one of the party to the dispute makes an

*application to the Court for reference of the case to the Lok Adalat for settlement, even in such a situation the Court shall refer the dispute to the Lok Adalat for settlement, but in this case the additional requirement is that the Court should be prima facie satisfied that there are chances of such settlement. Whereas, the third situation perceived by clause (ii) of sub-section (1) of Section 20 enables the Court to refer the case to the Lok Adalat on its own if it is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat. In the third category, whether the parties to the dispute, either singularly or jointly, agree for reference does not arise, **but the quintessence for invoking this provision is that the Court must be satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat and nothing more.** However, in view of the proviso to sub-section (1), before making reference, the Court shall give reasonable opportunity of being heard to the parties. A fortiori, it will be preposterous to hold as contended that the Court has no authority to refer a case on its own even though it is satisfied that the case is an appropriate one for reference to the Lok Adalat for settlement. To my mind, it is wholly unnecessary for the Court to investigate whether there are chances of settlement. The purpose of such reference is to explore the possibility of conciliation with the mediation of an independent agency which has the expertise in that*

*behalf and statutory backing for its decision. The purpose of relegating the parties first to the Lok Adalat is obviously for conciliation. In matters like the present one, it is the bounden duty of the Court to first explore the possibility of settlement. Such approach alone would serve the legislative intent of creating Lok Adalats and of providing them statutory backing for its decision. **Any other view would not only frustrate the legislative intent but also result in affecting the authority of the Courts to the intent it enables the Court to require the parties to submit to the jurisdiction of Lok Adalat in cases where the Court is satisfied that case is an appropriate case to be referred to the Lok Adalat.**"*

emphasis applied

37. A complete reading of Sections 19, 20 and 21 of the said Act indicates that under sub-section (5) of Section 19, the Lok Adalat has jurisdiction to determine and to arrive at a compromise or settlement between the parties in two contingencies. Firstly, in the cases pending before the Court for which Lok Adalat is organized, and secondly, in the cases falling within the jurisdiction of the Court but not brought before the Court, i.e. pre-litigation cases within the jurisdiction of the Court for which the Lok Adalat is organized. In both the contingencies indicated above, the Lok Adalat can take cognizance of the cases

referred to under sub-section (1) or (2) of Section 20. When the parties agree, or one of the parties makes an application, and the Court is prima facie satisfied that there are chances of settlement or if the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the Court after giving a reasonable opportunity of being heard can refer the case to Lok Adalat. If the Authority or the Committee organizing the Lok Adalat receives application in pre-litigation cases as referred to in clause (ii) of sub-section (5) of Section 19 of the said Act, can refer the matter to the Lok Adalat, after giving a reasonable opportunity of being heard to the other party. Thus, for the Lok Adalat to take cognizance of any matter, a reference by the Court in pending cases or a reference by the authority or Committee organizing the Lok Adalat in pre-litigation cases is mandatory as contemplated under Section 20. In view of Section 21, the Award made by the Lok Adalat shall be deemed to be a decree of a civil court or as the case may be, and shall be final and binding on the parties. Thus, when parties arrive at any settlement or compromise before Lok Adalat, the Award has to be made by Lok Adalat and not by the concerned judge in his capacity as a judge or independently as

head of the Lok Adalat panel. The Award under Section 21 has to be of the Lok Adalat, which means the entire Panel of the Lok Adalat.

38. For the reasons recorded above and by relying upon the aforesaid legal principles settled by this Court in the decisions referred to above, I summarise my conclusions as follows:

- (i) The Lok Adalat has jurisdiction to determine and arrive at a compromise or settlement between the parties in two contingencies: first, in cases pending before the Court for which Lok Adalat is organized, and second, pre-litigation cases within the jurisdiction of the Court for which the Lok Adalat is organized.
- (ii) The Lok Adalat can consider pending cases referred by the Court and pre-litigation cases referred by the Authority or the Committee organizing the Lok Adalat.
- (iii) In the cases pending before the Court, the parties can agree to refer the case to Lok Adalat, or when one of the parties makes an application to refer the case to Lok Adalat, and the Court is prima facie satisfied that there are chances of settlement, or if the Court is satisfied that the matter is an

appropriate one to be taken cognizance of by the Lok Adalat; the Court after giving a reasonable opportunity of being heard to all parties can refer the case to Lok Adalat.

- (iv) The Authority, or the Committee organizing the Lok Adalat, is under obligation to follow the procedure contemplated under Section 20 of the said Act. In the absence of a valid Order by the concerned Court making a reference under sub-section (1) of Section 20, the Committee has no authority to transfer the pending cases to the Lok Adalat directly. Such a reference directly made by the Authority or the Committee, apart from being illegal, will also be an exercise in futility, amounting to a waste of time and would defeat the very purpose and object of Lok Adalat.
- (v) If the Authority or the Committee organizing the Lok Adalat receives an application in pre-litigation cases falling within the jurisdiction of any Court for which the Lok Adalat is organized, can refer the matter to the Lok Adalat, after giving a reasonable opportunity of being heard to the other party, and on being satisfied that such matter needs to be determined by

the Lok Adalat.

- (vi) Thus, the Lok Adalat can take cognizance of any matter, provided the court makes a reference in pending cases and the Authority or Committee organizing the Lok Adalat makes a reference in pre-litigation cases as contemplated under sub-section (1) or (2) of Section 20.
- (vii) Every Lok Adalat, while determining any reference, has to act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles. Thus, the application of mind by the entire panel of the Lok Adalat is contemplated before making an Award. Before making an Award, the whole panel of the Lok Adalat must be satisfied that the parties have arrived at a compromise or settlement. Such application of mind and satisfaction must be reflected in the Award.
- (viii) It is the duty of the Lok Adalat to inquire whether the parties have understood the contents of the compromise or settlement and whether they have willingly signed. The

compromise or settlement recorded before the Lok Adalat must satisfy the same test as laid down under Rule 3 of Order XXIII of CPC.

- (ix) Only to show more figures of disposal of cases in Lok Adalat, matters cannot be listed before Lok Adalat in undue haste without following the due procedure contemplated under Section 20 of the said Act.
- (x) When parties arrive at any settlement before Lok Adalat, the Award has to be made by Lok Adalat and not by the concerned judge in his capacity as a judge or independently as head of the Lok Adalat panel. The Award under Section 21 has to be of the Lok Adalat, which means the entire Panel of the Lok Adalat.
- (xi) The procedure contemplated under Section 20, read with Sections 19 and 21 of the said Act, is not an empty formality. Only for showing that a large number of cases were disposed of in Lok Adalat, the mandatory procedures cannot be bypassed, as it would defeat the very purpose and object of Lok Adalat. Any Award made in breach of the procedures

contemplated under Section 20 cannot be termed as a valid Award under Section 21 of the said Act.

39. Thus, for the reasons recorded above, I am of the opinion that in the present case, there is neither an order of reference made as contemplated under sub-section (1) of Section 20 nor an award made by the Lok Adalat as contemplated under sub-sections (3) and (4) of Section 20. The endorsement made on Exhibit 1 of the Plaint in Regular Civil Suit No. 781 of 2017 issuing suit summons making it returnable on a non-working Saturday is illegal. There is no justification for preparing a board dated 9th September 2019, which is a non-working Saturday. Administrative Order dated 6th September 2017 issued by the Chairman of the Taluka Legal Service Committee cannot be termed as an Order making a valid reference for transferring the pending cases to the Lok Adalat. The Committee was under obligation to follow the procedure contemplated under Section 20 of the said Act. In the present case, in the absence of a valid Order by the concerned Court making a reference under sub-section (1) of Section 20, the Committee had no authority to transfer the pending cases to the Lok Adalat directly. In the present case, the approach adopted by the

concerned Court, the Committee and the Lok Adalat panel shows an undue haste only for the purpose of showing that a large number of matters were disposed of in Lok Adalat. A complete disregard for the procedures under the said Act read with the relevant provisions of CPC, has defeated the very object and purpose of the Lok Adalat. Hence, the order dated 9th September 2017 passed by the learned 2nd Joint CJJD and JMFC, Barshi, below Exhibit 1, disposing of the suit is clearly without jurisdiction, and the Award of the Lok Adalat is illegal.

40. For the reasons recorded above, it is not necessary to further examine the objections raised by the learned counsel for the respondent on delay and latches and the requirement to prove the allegations amounting to fraud and coercion. Once the Award and the disposal of the suit are held to be invalid for non-compliance with the mandatory provisions under the said Act, the petition cannot be dismissed on the aforesaid objections. The explanations given by the petitioner in the memo of the petition for invoking the writ jurisdiction of this Court are justifiable and acceptable. However, the compromise pursis is on record, but the defendant has disputed it and raised doubts about its legality and validity. Hence, it is necessary for the

Court to conduct an inquiry as contemplated under Rule 3 of Order XXIII of CPC and pass an appropriate order. Thus, for the reasons recorded above, this is a fit case to exercise the powers under Article 227 of the Constitution of India.

41. Hence, the Petition is allowed by passing the following order:

- (i) The order dated 9th September 2017 passed by the learned 2nd Joint CJJD and JMFC, Barshi, below Exhibit 1, and the Lok Adalat Award dated 9th September 2017 in Regular Civil Suit No. 781 of 2017 is quashed and set aside.
- (ii) Regular Civil Suit No. 781 of 2017 is restored to the file of the 3rd Joint CJJD Barshi, for disposal on merits.
- (iii) The 3rd Joint CJJD Barshi, shall make inquiry on the legality and validity of the compromise pursis at Exhibit 8, as contemplated under Rule 3 of Order XXIII of CPC, and pass appropriate order.

42. Copy to be sent to the learned Member Secretary of MSLSA for information and necessary action.

43. The Petition is allowed in the aforesaid terms.

[GAURI GODSE, J.]