

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8938 OF 2019.

Atul Sharadchandra Gadre
and Anr.

...Petitioners.

Versus

State of Maharashtra and Os.

...Respondents.

Mr. Vivek Salunke i/b Ujjwala Deshmukh for the petitioners.

Smt. M. S. Bane , AGP for respondent No.1-State.

Mr. Kedar S. Patil for respondent Nos.2,3 and 5.

Coram : Sharmila U. Deshmukh, J.

Date : 9th July, 2024.

P. C. :

1. Heard.
2. This petition filed under Article 226 and 227 of the Constitution of India seeks to challenge the award of the Lok Adalat dated 12th November 2016 in RCS No.63/2016 by which the suit came to be compromised.
3. RCS No.63/2016 was filed by respondent No.2 against respondent Nos.3 and 4 seeking partition of the ancestral property. The petitioners though part of the family were not impleaded as party and the suit came to be compromised between respondent Nos.2 to 4 *inter se* before the Lok Adalat by award dated 12th November, 2016. The suit was filed on 11th November, 2016 and on the very next day i.e. on 12th November, 2016, it was compromised before Lok Adalat. Upon

becoming aware of the same, the petitioner instituted independent suit being RCS No.44/2018 for challenging the award of the Lok Adalat. In these proceedings, written statement was filed by Respondent Nos. 2 to 4 on 23rd August, 2018 stating that the respondent Nos.2 to 4 are agreeable to setting aside of the award of the Lok Adalat. RCS No.44/2018 came to be disposed as the same was not maintainable, pursuant to which present petition came to be filed.

4. Learned counsel appearing for the petitioners submits that it is not disputed that the petitioners were having share in the ancestral property and without being impleaded as party, on the very next date of filing of the suit, by compromise between respondent Nos.2 to 4, the award of the Lok Adalat was obtained. He submits that in view of the written statement filed by respondent Nos.2 to 4 the award of Lok Adalat is required to be set aside. He further submits that he is not pressing as regards fraud which was practiced at the time of obtaining award of Lok Adalat.

5. *Per contra*, learned counsel for respondent Nos.2 to 4 on instructions submits that respondents stand by the pleadings in the written statement filed in RCS No.44/2018 and the award of the Lok Adalat passed in RCS No.63/2016 to be quashed and set aside.

6. In light of the above , it is not necessary for this Court to go into merits of the matter to ascertain whether the award of the Lok Adalat was obtained by fraud and is therefore required to be set aside. Respondent Nos.2 to 4 have, by way of pleading on oath, agreed for the award of Lok Adalat to be set aside which stand they confirm in the present petition.

7. Petition therefore succeeds in terms of prayer clauses (a) and (c) which reads thus:

“(a) that a Writ of Certiorari or any appropriate Writ, Order or Direction in the nature of Certiorari, calling for the records and proceedings of R.C.S. No.63 of 2016 at Civil Judge Junior Division, Deorukh, be issued and after perusing the same, be pleased to quash and set aside the Impugned Order dated 12th November, 2016 in R.C.S. No63 of 2016 passed by Lok Adalat held at Civil Judge Junior Division, Deorukh (Exhibit-“A”);

(c) that this Hon’ble Court may be pleased to issue appropriate Order to respondent Nos.2 to 4 to take requisite steps to cancel the entry of impugned Order, if already made in revenue records. “

- 8.** In view of disposal of petition, Interim/Civil Applications, if any, do not survive for consideration and stand disposed of.

[Sharmila U. Deshmukh, J.]