



W.P.(MD)No.4976 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.11.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.4976 of 2018
and W.M.P(MD)No.12532 of 2018

Revathi

... Petitioner

/Vs./

1.Mega Lok Adalat Committee,
Thuraiyur,
Tiruchirappalli District

2.Palaniyappan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned award dated 09.12.2017 passed by Mega Lok Adalat Committee, Thuraiyur the first respondent herein in the case in M.C.No.3 of 2013, on the file of the Judicial Magistrate Court, Thuraiyur and consequently direct the first respondent to 'modify' the award dated 09.12.2017 only to the effect that the agreed maintenance amount of Rs.2000/- per month should be paid to the petitioner by the respondent from the date of the petition i.e on 31.01.2013.

For Petitioner : Mr.P.M.Vishnu Varthanan

For R2 : Mr.N.Shankar Ganesh



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ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to quash the impugned award dated 09.12.2017 passed by Mega Lok Adalat Committee, Thuraiyur. in M.C.No.3 of 2013, on the file of the Judicial Magistrate Court, Thuraiyur and for consequential direction to the first respondent to 'modify' the award dated 09.12.2017 only to the effect that the agreed maintenance amount of Rs.2000/- per month should be paid to the petitioner by the second respondent from the date of the petition i.e on 31.01.2013.

2. The petitioner is the wife of the second respondent. They got married on 25.06.1997. Thereafter, they had misunderstanding and got separated. The petitioner could not able to maintain herself and filed a petition for maintenance in M.C.No.3 of 2013 on the file of the Judicial Magistrate, Thuraiyur, Trichy District. During the pendency of the maintenance case, it was referred before the Lok Adalat and the petitioner and the second respondent entered into an amicable settlement that the petitioner is ready and willing to receive a sum of Rs.2000/- per month as monthly maintenance payable by the second respondent.



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However, the Lok Adalat passed the award that the maintenance amount shall be paid by the second respondent from the date of the award instead of the date of petition of the maintenance case. The maintenance case was filed in the year 2013 and the award was passed on 09.12.2017. Further, the second respondent did not comply the said order and till today no single paise has been paid to the petitioner. Therefore, the petitioner filed a petition before the trial court in M.C.No.3 of 2013 to correct the order as from the date of petition instead of from the date of the award. However, it was returned on 12.01.2018 on the ground that no amendment can be done after passing the award with the consent of both the parties. Therefore, the petitioner has filed the present Writ Petition challenging the award passed by the Lok Adalat in M.C.No.3 of 2013 on the file of the Judicial Magistrate, Thuraiyur, Trichy District.

3. The learned counsel for the second respondent would submit that though the second respondent is ready and willing to pay monthly maintenance, the petitioner has failed to come forward to collect the amount. Further, his counsel advised that the amount can be paid only in the execution petition. He would also submit that this Writ Petition itself



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is not maintainable and the award of the Lok Adalat can be challenged only under the circumstances that the award was obtained by fraud. Therefore, the writ court cannot in a casual manner *de hors* any reasoning set aside the award passed by the Lok Adalat. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court of India in **2022 SCC Online SC 636 (K.Srinivasappa and others Vs. M.Mallamma and others)**, wherein it is held ad follows:

"34. 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".

4. As stated supra, only correction to be carried out in the award is that whether the maintenance shall be paid by the second respondent from the date of petition or from the date of award. However, the trial court returned the petition on the ground that it has no power to amend the award after compromise and after signed by the parties. The Hon'ble



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Supreme Court of India in the case of **Bhargavi Constructions vs Kothakapu Muthyam Reddy** reported in **2017(5) CTC 775** held that the parties would be at liberty to challenge the legality and correctness of the award passed by the Lok Adalat by filing the writ petition under Article 226 or/and 227 of the Constitution in the High Court in accordance with law.

5. Therefore, the writ petition is very much maintainable challenging the award passed by the Lok Adalat. Further, admittedly, the second respondent even till today has not paid any single paise to the petitioner as agreed before the Lok Adalat. Therefore, the judgment relied upon by the second respondent is not applicable to the present case since there is circumstance as stated supra to interfere in the award passed by the Lok Adlat.

6. In view of the above, the award passed by the first respondent is liable to be quashed and the same is quashed. The case in M.C.No.3 of 2013 is remanded back to the file of the Judicial Magistrate Court, Thuraiyur, Trichy District for fresh disposal after full pledged trial. In the



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meanwhile, the petitioner is entitled to interim maintenance of Rs.10,000/- per month. The second respondent shall pay a sum of Rs.10,000/- as interim maintenance to the petitioner directly till the disposal of M.C.No.3 of 2013 on the file of the Judicial Magistrate Court, Thuraiyur, Trichy District. The learned Judicial Magistrate, Thuraiyur, Trichy District is directed to dispose of M.C.No.3 of 2013 within a period of three months from the date of receipt of a copy of this order.

7. In the result, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2024

Index : Yes / No

NCC : Yes / No

CM

TO:

1.Mega Lok Adalat Committee,
Thuraiyur,
Tiruchirappalli District



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G.K.ILANTHIRAIYAN, J.

CM

Order made in
W.P.(MD)No.4976 of 2018
and W.M.P(MD)No.12532 of 2018

Dated:
08.11.2024