



W.P.(MD).No.20348 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.20348 of 2017

and

W.M.P.(MD)Nos.16609 of 2017 and 948 of 2018

Anwar Jahan

...Petitioner

Vs

1.The District Legal Services Authority,
Represented by its Secretary,
District Court Campus,
Madurai.

2.Azardduin Abdul Salam

3.Syed Abdul Salam

4.Ismail Salam

5.Kathoon Beevi

6.Kathija Beevi

7.Shameem Banu

8.Habihullah

9.Nainar Mohamed

10.Mohamed Abdul Kadhar

11.Mohamed Ibrahim



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12.Ahamed Syed Ibrahim

13.Abdul Salam

14.Rameesa Beevi

15.Kader Beevi

16.Syed Meeram Beevi

17.Kishore Jahan

18.Syed Abdul Kader

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Declaration, to declare the impugned Lok Adalat award dated 20.02.2016 on the file of the first respondent as null and void and consequently refer all suits for re-adjudication in the nature and circumstances of the case.

For Petitioner : Mr.Labrar Mohammed Adbullah

For R-1 : Mr.M.Murugan

For R-2 to R-15 : Mr.M.Mohamedsha

For R-16 & R-18 : No Appearance

For R-17 : Mr.S.Rajasekar



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ORDER

WEB COPY Heard learned counsels on either sides.

2. This Writ Petition has been filed challenging the award passed by the lok Adalat on the ground of fraud.

3. The learned counsel for the petitioner would submit that the award had been passed in the Lok Adalat in a batch of cases, wherein a property that was not part of the suit in question, but was instead part of another suit, was also settled. Therefore, he would submit that fraud has been played before the Lok Adalat which in itself is a sufficient ground to set aside the order. The fraudulent conduct is apparent on the face of the award, rendering it unjust. Therefore, he would submit that there are no disputed questions of fact that need to be decided in this Writ Petition, as the fraud is self-evident.

4. The learned counsel for the petitioner had also relied upon the judgment of the Hon'ble Apex Court in the case of ***K.Srinivasappa and others v. M.Mallamma and others*** reported in ***(2022) 17 SCC 460*** specifically paragraph 34. This judgment supports the contention that a Writ Petition is maintainable against the award of the Lok Adalat,



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particularly when allegations of fraud in obtaining the award for compromise are made.

5. Countering his arguments, the learned counsel appearing for the private respondents would submit that pursuant to the Lok Adalat award, parties had altered their position and acted in accordance with the terms of the said award. He would further submit that the petitioner himself has also acted based upon the award and therefore he cannot claim that the award has been made fraudulently. Therefore, he would pray this Court to dismiss the writ petition.

6. The learned counsel for the respondents also relying upon the very same judgment relied upon by the petitioner, however draws attention of this Court to paragraph 40 of the said judgment, and would submit that the Apex Court in the said case has held that the parties seeking to avoid the terms of the consent decree has to establish the same before the Court that had passed the decree and therefore would submit that the writ petition cannot be entertained, as the issue of fraud raises a disputed question of fact that must be resolved by the Court that originally passed the decree.



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WEB COPY 7. I have considered the submissions made on either side and perused the materials available on record.

8. A reading of the judgment relied upon by the learned counsels on either side would draw me to the conclusion that even though the Apex Court has held that the Writ Petition would be maintainable, it has also held that an award of Lok Adalat cannot be reversed or set aside without setting aside the facts recorded in such award that has been fraudulently arrived at. The Hon'ble Apex Court after discussion of various judgments has held that it only be imperative for the parties seeking to avoid terms of the consent decree to establish before the Court that passed the same that the agreement on which the consent decree is based is invalid and illegal. However, on the facts of the said case, the Hon'ble Apex Court held that the High Court had not entered into any discussions on the findings that there was fraud committed in the compromise and therefore set aside the order passed by the High Court. For better appreciation, the relevant paragraphs of the said judgment is extracted hereunder:



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“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 fraudulently arrived at.

*40. In **Pushpa Devi Bhagat v. Rajinder Singh**, this Court held that since no appeal would lie against a compromise decree, the only option available to a party seeking to avoid such a decree would be to challenge the consent decree before the court that passed the same and to prove that the agreement forming the basis for the decree was invalid. It is therefore imperative that a party seeking to avoid the terms of a consent decree has to establish, before the Court that passed the same, that the agreement on which the consent decree is based, is invalid or illegal.”*

9. Even though fraud has been alleged, the same has been sought to be brushed aside by contending that the petitioner had been acted upon



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the Joint memo of compromise upon which the award had been passed.

Therefore, this Court must not only examine whether fraud occurred, but also investigate into the facts surrounding the parties' actions based on the award, which involves multiple disputed questions of fact. This Court cannot undertake such an examination under Article 226 of the Constitution of India.

10. With the above observations, this Writ Petition is disposed of with liberty to the parties to approach the appropriate civil court to redress their grievances. If they approach the civil court, the period of pendency of the writ petition shall stand excluded while calculating the period of limitation for instituting a suit. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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K.KUMARESH BABU, J.

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To:

The Secretary,
The District Legal Services Authority,
District Court Campus,
Madurai.

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