



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11024 OF 2022

Pramila Avdhut Tawade

....Petitioner

VERSUS

Jijabai Yashwantrao Tawade & others

.....Respondents

Ms. R. V. Sundale, Advocate for the Petitioner.

Mr. V. D. Patnurkar, Advocate for Respondent Nos. 1 to 10.

CORAM : R. M. JOSHI, J.

DATE : 11th SEPTEMBER, 2025.

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the award passed by the Lok Adalat dated 11.12.2021 in Regular Civil Suit No. 332/2021.

3. The facts which led to filing of this Petition can be narrated in brief as under :-

Petitioner is the wife of Avdhut, who died on 11.04.2022.

Respondents are the mother and brothers of deceased Avdhut.

Respondent No. 3 file suit being Regular Civil Suit No. 332/2021

before the Civil Judge Junior Division, Hadgaon, for declaration of ownership and perpetual injunction against the Defendants including deceased Avdhut. Petitioner was not made party to the said proceeding. On the next day of filing of the suit, compromise came to be arrived at between the parties. Award came to be passed accordingly on 11.12.2021. After about 4 months of the said compromise, Avdhut died. Petitioner has a grievance in respect of said compromise on the ground that her husband never signed compromise pursis and that the properties which are self acquired property of more value of deceased Avdhut are being given to the share of his brothers. The compromise is also sought to be challenged on the ground that the Lok Adalat had no authority to accept the compromise which is beyond the scope of the suit.

4. Learned counsel for Petitioner submits that the suit filed before the Trial Court clearly indicates that there was already partition effected in respect of the properties and hence there was no reason or justification for partitioning the suit properties again by way of compromise. It is her submission that within four months of the said compromise, husband of the Petitioner died which indicates that in order to deny the right of the Petitioner, compromise came to

be executed. It is her further submission that the signatures on the compromise pursis as well as admitted signature of deceased differ and therefore compromise be held to be obtained by fraud. It is her further submission that the suit was filed only for declaration in respect of one property and that it was not open for the Lok Adalat to permit compromise in respect of other properties. In order to support her submissions, she placed reliance on judgment of this Court in case of Lata w/o Bharat Kalamkar vs. Shankar s/o Revaji Tambe and others **in Writ Petition No. 3825/2019**. She refers to the observations made by the Coordinate Bench of this Court in Paragraph No. 18 of the said judgment. Similarly, reliance is placed on judgments of the Supreme Court in case of Bansant Singh vs. Janki Singh and others, **AIR 1967 SC 341** and Gautam Sarup vs. Leela Jetly and others, **2008(5) Mh.L.J. 545 (SC)** in order to argue that the admission of the party is the best evidence and here in this case it is stated in the plaint that there was already partition of the properties.

5. Learned counsel for Respondents has drawn attention of the Court of the order passed by the Lok Adalat wherein there is specific recording to the effect of presence of the parties along with

their advocates and that the contents of the agreement being read over and explained to them and they admitted the same to be correct. He also pointed out that the panel of Lok Adalat has recorded finding that the agreement does not appear to be collusive in nature. It is further submitted that though unfortunately the husband of the Petitioner died within four months of the said compromise, this is not a case wherein he as diagnosed of any terminal disease and he was likely to die within a short period of time. It is submitted that even if the sale-deed which is sought to be placed on record is considered, comparison of the signature thereon does not indicate that the signature on the compromise pursis differs.

6. It is settled position of law that the award passed by the Lok Adalat cannot be taken exception to except by filing writ petition in this Court. If any party proposes to get said award passed by the Lok Adalat set aside on the ground of fraud, the same needs to be pleaded specifically and proved. Here in this case, the entire contention of the Petitioner is that after a period of four months of compromise, her husband died and therefore the award is obtained by fraud. Medical evidence sought to be placed on record however does not indicate that the husband of the Petitioner was suffering

from any terminal disease or diagnosed of short life remaining. There is nothing on record to indicate that any view was expressed by the Medical Officer that he is likely to die within a short period of time. Record indicates that he died because of heart attack. Needless to say that the death of Petitioner's husband is unfortunate however, the same cannot become a ground for setting aside the award passed by the Lok Adalat unless it is shown that award is by fraud.

7. In this regard, it is pertinent to note the order of the Lok Adalat which reads thus :-

- 1) This agreement is reached between the parties through National Lokadaalt in regard to all the issues in the suit and reduced into writing and signed by the parties and attested by their respective Advocates.*
- 2) Parties and their Advocates are present today. Therefore, the agreement is taken up today itself for recording the settlement.*
- 3) The contents of the agreement are read over and explained to the parties. They admit the same to be correct.*
- 4) Verified the parties. The agreement does not appears to be collusive.*

5) Hence, this settlement agreement is read and recorded. Consequent order is passed below Exh. 01.

This order indicates that the parties were present before the panel including husband of Petitioner. They were duly identified by their Advocates. Contents of the agreement/compromise were read over and explained to the parties and they admitted the same to be correct. It is also observed that the agreement does not appear to be collusive in nature. All these facts indicate voluntary nature of compromise. Nothing is placed on record to indicate that husband of Petitioner was incapacitated at relevant time from entering into a valid compromise.

8. The aforestated order clearly indicates that there is no reason to believe that the husband of the Petitioner was not present before the Lok Adalat for confirming the compromise entered into between the parties. Though it is matter of fact that the compromise has arrived at on the next day of filing of the suit, that itself cannot become a ground for setting aside the compromise unless it is substantiated that the same was obtained by fraud. As held earlier, even the deceased was not having any apprehension of his untimely or early death. It is a case sought to be made out by the Petitioner

that the properties which are self acquired properties of her husband are given to the other Respondents and in exchange, the properties which are of less value from village Talani, Tq. Hadgaon were given to the share of her husband. If it is the case of the Petitioner that those were self-acquired properties of her husband and if the husband consciously decides to include it in the common hotpotch, no one could prevent him from doing so nor the Court can compel the parties not to act upon such compromise.

9. Insofar as the judgment cited before this Court in case of Lata (supra) is concerned, the observations made in the said judgment clearly indicate that the daughters of deceased Revji who were necessary parties to the suit were not joined as party neither there was any pleading that the daughters have relinquished their share in respect of the ancestral property. In this backdrop, the death of deceased Revji within four months of institutions of the suit was considered to be doubtful circumstance. Admittedly, the Petitioner herein had no right in the property till the time her husband was alive and could not have been joined as party Defendant to the suit.

10. It is sought to be argued on behalf of the Petitioner that the Petitioner was excluded from array of Respondents though her sisters-in-law were joined as party Respondents. In this regard, learned counsel for Respondents sought to clarify the position by stating that since their names were appearing on the record of rights in respect of certain properties, they were made party Defendants to the suit. This is a satisfactory explanation provided by the Respondents in order to exclude the Petitioner from the array of Defendants. There is no dispute about the fact that the Petitioner and her husband had no dispute at all. If it is so, there is no reason or justification to say that the husband of the Petitioner had deliberately entered into the compromise in order to cause prejudice to the Petitioner.

11. Having regard to the aforestated facts, merely because the Petitioner feels that the properties which are given to the share of Respondents ought not to have been given to their share cannot become a ground for setting side the award passed by the Lok Adalat. There is nothing on record to indicate that the Lok Adalat had no jurisdiction to allow the compromise which is executed and entertained. There is no dispute about the settled position of law

that it is open for the parties to enter into compromise in respect of the properties not even included in the suit provided that the Court passing a decree has jurisdiction to pass such decree. There is nothing on record to indicate that the Lok Adalat or the Court before which the suit was filed had no jurisdiction to allow said compromise.

12. In view of above discussion, it cannot be held that the award passed in Lok Adalat is obtained by fraud in order to cause interference therein. Consequently, Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb