

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 WRIT PETITION NO. 12940 OF 2022

Achyut s/o Venkati Hole

Age : 64 years, Occu : - Agri,

R/o: - Dalvewadi, Tq: - Chakur,

Dist : - Latur,

...Petitioner

VERSUS

1. The Tahsildar Chakur
Tahsil Office Chakur, Dist: Latur.

2. Narhari S/o. Dnyanoba Hole,
Age _ 49 years, Occu : - Agri.
R/o : Dalvewadi, Tq : Chakur,
Dist : - Lature,

...Respondents

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Mr. Balbhim R. Kedar, Advocate for the Petitioner.

Mr B. B. Bhise, AGP for Respondent No.1.

Mr. Vinesh C. Solshe, Advocate for Respondent No.2.

...

CORAM : ROHIT W. JOSHI, J.

DATED : 22th JULY 2025

ORAL JUDGEMENT :-

1. By the present petition, the petitioner takes exception to award dated 23.11.2013 passed by Lok Adalat under the provisions of Legal Services Authorities Act, 1987.

2. Respondent No.2 had filed a suit being Regular Civil Suit No.174 of 2013 against the present petitioner. The suit was filed on 22.11.2013 and vide order dated 22.11.2013 suit summons were

ordered to be issued making same returnable on the next date i.e. 23.11.2013. On 23.11.2013 the present petitioner appeared in the matter. The plaintiff(respondent no.2) and defendant (petitioner) were referred to the Lok Adalat where the impugned award dated 23.11.2013 came to be passed. This award passed by the Lok Adalat is under challenge in the present petition.

3. The learned Counsel for the petitioner submits that it is inconceivable that in a suit which was filed on 22.11.2013 summons were issued on the same day making the same returnable on the very next day i.e. on 23.11.2013. He states that on 23.11.2023 was a holiday. His contention is that respondent no.2 who is a close relative being cousin, represented that the State Government has framed a scheme for providing financial aid to local artisans and took him to the Court premises under the pretext of completing formalities for enabling the petitioner for avail benefits of alleged scheme. The petitioner states that under such impression his signatures were obtained on the relevant documents on the basis of which compromise is recorded and the award is passed by the Lok Adalat.

4. The learned Counsel for the petitioner further contends that procedure prescribed for reference to Lok Adalat was not followed in the present matter. He has placed reliance on Section 20 of the Legal

Services Authorities Act, 1987 as also a judgment passed by a Division Bench of this Court in the matter of ***Namdeo Hambira Baba and Others Vs. Gajanan Bhauso Babar and Others*** reported in ***2015 (1) Mh.L.J. 932***. Perusal of Section 20 of the Act will demonstrate that parties can be referred to Lok Adalat only if they agree for the same, or one of the parties makes an application to the Court for such reference and the Court is *prima facie* satisfied that there is a possibility of settlement. Apart from this, a reference can be made if the Court concerned is of the opinion that having regard to the nature of the matter cognizance of the same can be taken by the Lok Adalat. The learned Counsel for the petitioner states that without arriving at any such satisfaction, the learned Civil Court has referred the parties to Lok Adalat which is in violation of the statutory provisions. He therefore submits that the impugned award which is passed without following the mandatory per-requisites cannot be sustained and is liable to be quashed.

5. The learned Counsel for respondent no.2 opposes the submission. He states that the petition is liable to be dismissed solely on account of delay as also conduct of the petitioner which will be apparent from the fact that earlier son of the petitioner had filed a suit being Regular Civil Suit No.512 of 2015 challenging the said award which is dismissed in default. He states that the petitioner was

also party to the said suit and despite being aware about the award he has chosen not to challenge the same. He therefore submits that the petition does not warrant any interference since the compromise is mutually arrived at between the parties almost 9 years before filing of the present petition.

6. Perusal of the order sheet 23.11.2013 will demonstrate that there is no order passed by the learned Civil Judge referring the parties to Lok Adalat, however, the order sheet also demonstrates that the present petitioner who is the defendant in the said suit had appeared in the suit, he filed some pursis on record vide Exhibit-8, Vakalatnama vide Exhibit-9 and registered address vide Exhibit 10.

7. It is apparent from perusal of the provisions of the Act as also the judgment on which the learned Counsel places reliance that the procedural formalities for referring to the parties before Lok Adalat were not properly followed. Normally on this count, the award could have been set aside. However, I find substance in the contention of the learned Counsel for respondent no.2 that long silence on the part of the petitioner in not challenging the award gives rise to presumption that he had voluntarily entered into the settlement and as such it will not be desirable to show indulgence in favour of the petitioner in the present petition. The learned Counsel for respondent

no.2 has rightly drawn attention to the Civil Suit filed by the son of the petitioner challenging the same award. Perusal of order sheet dated 22.02.2016 in the said suit will demonstrate that the petitioner was duly served with summons in the said suit. It appears that the petitioner did not appear in the said suit and therefore order to proceed *ex parte* was passed against him by the learned Trial Court.

8. The present petition is filed on 21.10.2022 i.e. after a period of over 6 and half years after being served with the suit summons in Regular Civil Suit No.512 of 2015 filed by the petitioner's son challenging the same award. Even if it is assumed that the petitioner was not aware that his signature was obtained on a compromise award passed by Lok Adalat on the date on which he had signed it, there is no explanation for not challenging the award after getting knowledge about the same upon service of summons in Regular Civil Suit No.512 of 2015.

9. The learned Counsel for the petitioner however, contends that he was not on talking terms with his son who has filed suit. He also contends that he was not served with summons in the suit filed by his son. Court has granted liberty to the petitioner to file certified copy of the suit summons on record to substantiate his claim about not being

served in the said civil suit. However, it appears that the relevant record in the said suit is destroyed, in view of passage of time in view of the provisions of Civil Manual. The order sheet records that the petitioner was duly served in the civil suit filed by his son. In that view of the matter, the presumption that the petitioner was duly served with suit summons in Regular Civil Suit No.512 of 2015 is not rebutted by the petitioner.

10. It will therefore have to be held that the petitioner was served with suit summons in Regular Civil Suit No.512 of 2015 filed by his son challenging the award impugned in the present petition since before six and half years. Silence for an inordinately long period of around six and half years would suggest that the petitioner was aware of the award passed by Lok Adalat and did not challenge it probably since the award was passed with his consent. Needless to mention that the burden of proving fraud will be on the petitioner. Having regard to the inordinate delay of over six and half years in filing the petition, this Court is not inclined to entertain the petition.

11. It is well settled that although there is no prescribed period of limitation for filing a petition, it is well settled that a party must approach the Court within a reasonable time. Normally three years is

considered as outer limit for availing remedies for which limitation is not prescribed. In the present case, the delay is of around nine years in challenging the award, if time is calculated from the date of award and six and half years, if time is calculated from the date of service of summons in Regular Civil Suit No.512 of 2015 in which the award impugned in the present petition was challenged by son of the petitioner. The explanation is not convincing. Apart from delay, silence over the matter for a period of around six and half years indicates that the petitioner had consented for the compromise pursuant to which the impugned award is passed.

12. In view of the above, it must be held that the petitioner has failed to establish case of fraud so also to explain the delay in filing of the petition.

13. With the result, the writ petition is dismissed with no orders as to costs.

[ROHIT W. JOSHI, J.]