

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.310 OF 2025

Sau Aruna Sunil Phalphale and
Anr.

...Petitioners

V/s.

Pravin Manohar Changude and
Ors.

...Respondents

Mr. Sujeet Bugade *for the Petitioners.*

CORAM : SANDEEP V. MARNE, J.

Dated : 21 January 2025.

P.C. :

1) The Petition is filed seeking to challenge, what is described by the Petitioner as ‘*Lokadalat Award*’, passed below Exhibit-9 in Regular Civil Suit No.81 of 2016 on 9 April 2016. However, the Order dated 9 April 2016 passed on Exhibit-1 (Plaint) in Regular Civil Suit No.81 of 2016 does not show that same is passed under the provisions of Legal Services Authority Act, 1987. It may be that National Lokadalat was organized on 9 April 2016 and it appears that a compromise memo in printed format was also sought to be presented by parties and their Advocates for placing the matter before the Lokadalat. However, the compromise was apparently presented before the Civil Judge,

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Junior Division, Karmala, who acted in his capacity as Civil Judge and not as a member of Lokadalat and recorded the compromise presented before him by the parties. The order dated 9 April 2016 appears to have been passed by the Civil Court under the provisions of Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (**the Code**). The order dated 9 April 2016 is not an Award passed under the provisions of Legal Services Authority Act, 1987. The decree has been drawn in accordance with order dated 9 April 2016 passed under the provisions of Order XXIII Rule 3 of the Code.

2) Petitioners, who remained present before the Court, signed the compromise *pursis* and identified themselves before the Court, are now attempting to wriggle out of the compromise by taking benefit of an error committed by the learned Judge in opening portion of order dated 9 April 2016 wherein he has observed that '*This suit is kept in National Mahalokadalat for compromise*'. Even if the National Mahalokadalat was indeed organized on 9 April 2016, the parties appear to have pressed the Suit for recording of compromise before the learned Judge instead of taking up the same before the Lokadalat. Merely because the Lokadalat was organized on the same day, the same did not preclude the Civil Court for exercising jurisdiction under Order XXIII Rule 3 of the Code. On 9 April 2016, the Court of the Civil Judge Junior Division was also in session as 9 April 2016 was not a holiday for regular court.

3) Mr. Bugade, the learned counsel appearing for the Petitioner, has relied upon judgment of Single Judge of Karnataka High Court in ***Smt. Pooja, D/o. Shankargouda Biradar V/s. Sri Siddanna s/o. Gunderao Biradar***¹. In the case before the Karnataka High Court, Lokadalat had entertained an application under Order XXIII Rule 3 of the Code. In the present case, Application for recording compromise under Order XXIII Rule 3 of the Code is entertained not by Lokadalat but by the Civil Judge, Junior Division. In that view of the matter reliance by Mr. Bugade on judgment of Karnataka High Court in ***Pooja, D/o. Shankargouda Biradar*** (supra) is misplaced.

4) In the present case, jurisdiction under Order XXIII Rule 3 of the Code appears to have been exercised by the learned Judge possibly on account of the Suit being pressed before him on 9 April 2016. Petitioners are now desirous of taking disadvantage of the fact that the Award is not made by the Lokadalat and that there is no order of reference as per Section 20 of the Act. However, since the jurisdiction of Civil Court under Order XXIII Rule 3 of the Code is not taken away on account of organization of National Mahalokadalat on a particular day, the learned Judge has rightly exercised the jurisdiction and passed order dated 9 April 2016, which is not an Award within the meaning of Legal Services Authority Act, 1987. This court does not appreciate the conduct of Petitioners in seeking to wriggle

1 Writ Petition No.205205 of 2019 decided by Kalburgi Bench on 18 March 2024.

out of compromise by relying on technicalities. This Court would therefore otherwise be loathe in exercising extraordinary jurisdiction under Article 227 of the Constitution of India. The Petition is thus mischievous and the same is accordingly rejected.

[SANDEEP V. MARNE, J.]