



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1265 OF 2022
WITH
CONTEMPT PETITION NO.151 OF 2025**

Sushila Devidas Ghorpade,
Age 75 yrs., Occu – Pensioner/Agri,
R/o Madha, Tal. Madha, Dist. Solapur,
C/o Pratibharani Prakash Gaikwad
Age 37 years, Occu – Service
R/o 1115, Juni Policeline,
Murarji Peth, Solapur – 413 001 ... Petitioner

versus

Ganesh Anandrao Jagdale
Age 40 years, Occu – Agriculture,
R/o Madha, Tal. Madha, Dist. Solapur ... Respondent

Mr. Ashok B. Tajane, for Petitioner.
Ms. Prachiti Deshpande, for Respondent.

CORAM : N.J.JAMADAR, J.

**RESERVED ON : 8 MAY 2025
PRONOUNCED ON : 9 JUNE 2025**

JUDGMENT :

1. Rule. Rule made returnable forthwith and, with the consent of the parties, heard finally.
2. The Petitioner – Defendant takes exception to the legality and validity of the Award dated 17 March 2019 passed by the Lok Adalat, Madha, Solapur, on the basis of the compromise pursis (Exh.8) in RCS No.159 of 2019 instituted by the Respondent – Plaintiff, primarily on the ground that the said

compromise pursis and the Award were obtained by playing fraud on the Petitioner and the Lok Adalat.

3. The background facts, in which the challenge to the Award passed by the Lok Adalat arises, can be summerized as under :

3.1 The Petitioner – Defendant is the owner of agricultural land bearing Gat No.780 admeasuring 2 H and 30 Are situated at Madha, District Solapur. The Defendant claimed to have acquired the said land under a registered Sale Deed dated 3 June 1983 for a valuable consideration of Rs.10,000/-. At that time, the Petitioner was a widow. The Respondent is her nephew.

3.2 The Petitioner averred, taking undue advantage of her situation in life, her brothers, nephews and nieces made attempts to usurp the said land. Amar A. Jagdale, the brother of Respondent, and Kiran N. Jagdale, nephew of the Petitioner had obtained a sham and bogus Sale Deed dated 2 January 2008 from the Petitioner without any consideration.

3.3 The Petitioner had instituted a suit being SCS No.119 of 2008 for a declaration that the said Sale Deed was sham and null and void. By a judgment and decree dated 23 September 2011, learned Civil Judge, Sr. Division, Barshi, decreed the said suit and the said registered Sale Deed dated 2 January 2008 was declared null and void and the Defendants therein were restrained by an order of permanent injunction from transferring, selling or otherwise creating any third party interest in the said land.

3.4 Yet, the Petitioner asserts, her brothers and nephews continued to harass her with a view to usurp the said land. As a part of the said design, the Respondent instituted a suit for partition being RCS No.159 of 2019. On 16 February 2019, the Respondent took the Petitioner to the Civil Court at Madha under the pretext that the Petitioner would get monetary consideration in lieu of the cultivation of the land by the Respondent and obtained the signatures of the Petitioner on few documents. It later transpired that the Respondent had obtained the signatures of the Petitioner on the compromise pursis and, on the strength of the said compromise pursis, an Award was passed by the Lok Adalat. The Petitioner had never relinquished her right in the suit land in favour of the Respondent.

3.5 Having realized the fraud, the Petitioner filed a complaint with the Police on 2 December 2021. Thereafter, the Petitioner instituted this Petition to quash and set aside the said Award dated 17 March 2019. Various acts of commission and omission are attributed to the Respondent to substantiate the claim that, the said Award has been obtained by practicing fraud on the Petitioner and the Lok Adalat.

4. The Respondent has resisted the Petition by filing an affidavit in reply. At the outset, the tenability of the Writ Petition was assailed. It was contended that the only remedy for the Petitioner was to institute a substantive suit for a declaration that the Award has been obtained by

practicing fraud. On the merits of the matter, the Respondent would contend, there are no specific allegations and particulars of the alleged fraud. It was incumbent upon the Petitioner to specifically plead the circumstances and particulars which would sustain an inference of fraud, as it cannot be a matter of surmises and conjunctures. At any rate, such an inquiry, which would be rooted in facts, cannot be conducted by a writ court as the investigation into the facts would be necessitated.

5. The Respondent contends, the Award has been passed on the basis of Compromise Pursis (Exh.8) indisputably executed by the Petitioner and Respondent, before the Lok Adalat. The order passed by the Head of the Lok Adalat Panel explicitly records that the parties have admitted their signatures on the Compromise Pursis and the contents thereof. Thereupon, the Compromise Pursis was read and recorded and the suit stood disposed in accordance with the Compromise Pursis (Exh.8). Thus, the allegations of fraud are false and baseless. A bare perusal of the Compromise Pursis (Exh.8) and the order passed by the Lok Adalat would indicate that no element of fraud is discernible, even remotely.

6. The Respondent has also adverted to a further agreement executed between the parties under which the Petitioner had acknowledged receipt of a consideration of Rs.8 Lakhs out of the sum of Rs.12 Lakhs, which was agreed to be paid.

7. By filing further affidavit, pursuant to an order passed by this Court dated 28 July 2023 to furnish the details of the payment allegedly made by the Respondent to the Petitioner, the Respondent affirmed that the balance amount of Rs.4 Lakhs was also paid by the Respondent to the Petitioner.

8. An affidavit in rejoinder has been filed on behalf of the Petitioner controverting the contentions in the affidavit in reply.

9. At this stage, it is necessary to note that, by an order dated 14 March 2023, this Court while granting time to the Respondent, had granted ad-interim relief in terms of prayer clause (d) of the Petition, thereby restraining the Respondent from disturbing the cultivation and possession of the Petitioner in respect of the suit land. Alleging that the Respondent had committed breach of the said order, the Petitioner has instituted a Petition being Contempt Petition No.151 of 2025 under the provisions of the Contempt of Courts Act, 1971 to initiate action for contempt against the Respondent.

10. In the wake of the aforesaid pleadings, I have heard Mr. Ashok Tajane, learned Counsel for the Petitioner, and Ms. Prachiti Deshpande, learned Counsel for the Respondent, at some length. Learned Counsel took the Court through the record before the trial Court and the pleadings in the instant Petition.

11. Mr. Tajane, learned Counsel for the Petitioner, would urge that the fraud is writ large. The Petitioner is 75 year old destitute lady. The brothers and

nephews of the Petitioner have time and again made efforts to usurp the property of the Petitioner, by hook and crook. A previous attempt of the brother of the Respondent and another nephew of the Petitioner to divest the Petitioner of her self-acquired property did not succeed as the Petitioner obtained decree in SCS No.119 of 2008. Undaunted, the Respondent instituted a suit for partition and separate possession of his share in the said land with the assertions as vague as possible.

12. Mr. Tajane would urge, the very fact that the suit was instituted on 16 February 2019 and the summons made returnable on a non-working day i.e. 17 March 2019 indicates that the institution of the suit was actuated by a design to fraudulently obtain the consent decree. Incontrovertibly, the summons of the said suit was not served on the Petitioner – Defendant therein. Yet, without following the mandatory procedure prescribed under the Legal Services Authority Act, 1987, the matter was placed before the Lok Adalat, and, eventually, the signatures of the Petitioner were obtained on documents without disclosing the contents thereof and on the pretext that the Petitioner would get monetary consideration for the cultivation of the said land by the Plaintiff therein.

13. Taking the Court through the averments in the plaint and the Compromise pursis (Exh.8), Mr. Tajane would urge, with a degree of vehemence, that the very foundation of the suit that the land bearing Gat

No.780 is the ancestral property is against the weight of the record. Hence, there was no question of Petitioner relinquishing her interest in the suit land, bearing Gat No.780 to the extent of 1 H 70 Are, in favour of the Respondent as was recorded in the compromise pursis (Exh.8). Lastly, Mr. Tajane would urge, if the Respondent became the owner of the suit property and in accordance with the compromise pursis an award passed thereon by the Lok Adalat, there was no reason to execute further Agreement dated 26 May 2020 between the Petitioner and the Respondent. Under the said Agreement, the Respondent, interestingly, acknowledged that the Petitioner is the owner and in possession and cultivation of the suit land; the Petitioner can enjoy the suit land till her lifetime; the Respondent had agreed to pay Rs.12 Lakhs to the Petitioner for her livelihood and had, in fact, paid Rs.8 Lakhs and the balance would be paid as and when required by the Petitioner. Therefore, according to Mr. Tajane, these circumstances cumulatively lead to an irresistible inference that the award was obtained by practicing fraud.

14. To buttress these submissions, Mr. Tajane placed reliance on a judgment of the Supreme Court in the case of Bhargavi Constructions and Anr. V/s. Kothakapu Muthyam Reddy and Ors.¹, a judgment of the learned Single Judge of this Court in the case of Lata V/s. Shankar and Ors.², and another judgment of the learned Single Judge of this Court in the case of

1 (2018) 13 SCC 480

2 2021 SCC Online Bom 6358

Madhukar Baburao Shete V/s. Yogesh Trimbak Shete and Anr.³

15. In opposition to this, Ms. Deshpande, learned Counsel for the Respondent strenuously submitted that this Court cannot delve into the aspect of the alleged fraud in exercise of writ jurisdiction. It was submitted that since the allegations of fraud constitute the very substratum of the Petition, it would be incumbent upon the Petitioner to prove those allegations by cogent evidence. That would warrant investigation into the facts which may not be legitimately possible in exercise of writ jurisdiction.

16. To bolster up this submission, Ms. Deshpande placed a very strong reliance on the judgment of the Supreme Court in the case of K. Srinivasappa V/s. M. Mallamma⁴. Mr. Deshpande further submitted that the aforesaid judgment has been consistently followed by this Court. Attention of the Court was invited to the orders passed by this Court in the cases of Mogya Tembrya Vasave and Ors. V/s. Raya Hunya Vasave and Ors.⁵, Baliram Krushna Salunke V/s. Pravin Raosaheb Salunke⁶ and Aminabi Mohammad Nawaj Burhan V/s. Shaikh Sultan Mahammad Nawaj Burhan⁷ whereby this Court permitted the Petitioners to approach the same Lok Adalat / Court which had passed the Award and agitate the grievance that the award was obtained by practicing fraud.

3 2024 SCC Online Bom 2688

4 AIR 2022 SC 2381

5 WP 6027 of 2022 dated 28 June 2022

6 WP No.2426 of 2022 dated 6 October 2022

7 WP 4798 of 2015 dated 17 April 2025

17. Ms. Deshpande also placed reliance on the judgment of the Supreme Court in the case of Navratan Lal Sharma V/s. Radha Mohan Sharma and Ors.⁸ wherein following the previous pronouncements in the cases of Pushpa Devi Bhagat V/s. Rajinder Singh⁹ and Banwari Lal V/s. Chando Devi¹⁰ it was reiterated that the only remedy available to a party who assails the legality and validity of a compromise decree was to approach the same Court which had accepted and recorded the compromise and passed a decree. This pronouncement does not seem to govern the facts of the case at hand as the compromise decrees therein, was not passed by the Lok Adalat constituted by the Act, 1987.

18. Ms. Deshpande submitted that, on the merits of the matter as well, there is not an iota of material to show that the award passed by the Lok Adalat was tainted with fraud. Apart from the bald allegations, according to Ms. Deshpande, there is neither adequate pleading nor sufficient material to sustain the allegations of fraud. On this count also, the Petition deserves to be dismissed, submitted Ms. Deshpande.

19. I have given anxious consideration to the rival submissions canvassed across the bar. Since Ms. Deshpande assiduously canvassed the submission that the issue of fraud in the passing of the award by the Lok Adalat cannot be legitimately entertained and determined by this Court in exercise of writ

8 Civil Appeal No.14328 of 2024 dated 12 Dec. 2024

9 (2006) 5 SCC 566

10 (1993) 1 SCC 581

jurisdiction and the appropriate remedy is to approach the very Lok Adalat which has passed the Award, and there are orders passed by this Court which have commended the said course, I deem it appropriate to deal with the said challenge initially.

20. To appreciate the aforesaid challenge in a proper perspective, a reference to few provisions of the Code of Civil Procedure, 1908 would be necessary. Order XXIII of the Code contains provisions in relation to withdrawal, adjustment and compromise of the suits. Rule (3) of Order XXIII reads as under :

“3. Compromise of suit. - Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise [in writing and signed by the parties], or where the defendant satisfies the plaintiff in respect fo the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith [so far as it relates to the parties to the suit, whether or not the subject-matter of the agreement, compromise or satisfaction is the same as the subject-matter of the suit] :

[provided that where it is alleged by one party and denied by the other that an adjustment or satisfaction has been arrived at, the Court shall decide the question; but no adjournment shall be granted for the purpose of deciding the question, unless the Court, for reasons to be recorded, thinks fit to grant such adjournment].

[Explanation. - An agreement or compromise which is void or voidable under the Indian Contract Act, 1872 (9 of 1872), shall not be deemed to be lawful within the meaning of this rule.”

21. It would be contextually relevant to note that Rule (3) suffered significant amendments under the CPC Amendment Act, 1976. Firstly, it enabled parties to arrive at a settlement even in regard to a matter which was not the subject-matter of the suit. Secondly, the proviso to Rule (3) enjoined the Court to determine the question whether there was an adjustment or satisfaction where it was alleged by one party and denied by the other that there was indeed such an adjustment or satisfaction. Thirdly, the Explanation which came to be inserted in Rule 3 provides that an agreement or compromise which is void or voidable under the Indian Contract Act, 1872 shall not be deemed to be lawful within the meaning of the said rule. Lastly, Rule 3-A came to be added, proscribing the institution of a suit to set aside the decree on the ground that the compromise on which a decree is based was not lawful.

22. It would be contextually relevant to note that Section 96(3) of the Code declares that no appeal shall lie from a decree passed by the Court with the consent of parties.

23. Analyzing the effect of the aforesaid amendments in Order XXIII and a

conjoint reading thereof with Section 96 of the Code and the deletion of clause (m) from Order XLIII Rule 1 of the Code, in the case of Pushpa Devi (supra), the Supreme Court enunciated that since no appeal would lie against a compromise decree, the only option available to a party seeking to avoid such consent decree would be to challenge the consent decree before the Court that passed such consent decree and prove that the agreement based on such consent terms was invalid.

24. In addition to the aforesaid restrictions in the matter of challenge to a consent decree on the ground that it is not lawful or otherwise vitiated by the elements like fraud, where the consent decree is passed by the Lok Adalat, constituted under the Act, 1987, the challenge to the consent decree has to surmount further impediments envisaged by the provisions of the said Act, 1987.

25. Section 2(d) of the Act, 1987 defines a Lok Adalat to mean a Lok Adalat organised under Chapter VI which deals with the Lok Adalat. Section 19, which is subsumed in Chapter VI, provides for organization of Lok Adalat. Sub-section (5) of Section 19 which deals with the jurisdiction of Lok Adalat, reads as under :

“(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of -

(i) any case pending before; or

(ii) any matter which is falling within the jurisdiction of, and is not brought before, any Court for which the Lok Adalat is organized :

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.”

26. The modes in which the Lok Adalat can take cognizance of the cases and the action to be taken by the Lok Adalat in such cases is governed by Section 20. Relevant part of Section 20 of the Act, 1987 reads as under :

“20. Cognizance of cases by Lok Adalats – (1) Where in any case referred to in clause (i) of sub-section (5) of Section 19, -

- (i) (a) the parties thereof agree; or
- (b) one of the parties thereof makes an application to the Court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or
- (ii) the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such Court except after giving a reasonable opportunity of being heard to the parties.

(2).....

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of

the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.”

27. Then comes, Section 21, which provides for Award of Lok Adalat. It reads as under :

21. Award of Lok Adalat. - (1) Every award of the Lok Adalat shall be deemed to be a decree of a civil Court or, as the case may be, an order of any other Court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the Court-Fee paid in such case shall be refunded in the manner provided under the Court-Fee Act, 1870 (7 of 1870).

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any Court against the award.”

28. Sub-section (1) of Section 21 declares that every award of the Lok Adalat shall be deemed to be a decree of Civil Court or an order of any other court, as the case may be. Sub-section (2) gives finality to the award made by the Lok Adalat and gives binding character to the award by declaring that such award shall be final and binding on all the parties to the dispute and

further debarring any appeal against the award to any Court. Thus, where an award is passed by the Lok Adalat on the basis of the consent of the parties, in addition to the bar under Section 96(2) of the Code, the bar under sub-section (2) of Section 21 operates and such a decree cannot be appealed before any Court.

29. In this context, a three judge Bench judgment of the Supreme Court in the case of State of Punjab and Anr. V/s. Jalour Singh and Ors.¹¹ deserves to be consulted. In the said case, after adverting to the aforesaid provisions of the Act, 1987, the Supreme Court enunciated that if any party wants to challenge an award passed on settlement, it can be done only by filing a Petition under Article 226 and 227 of the Constitution of India, that too on very limited ground. The observations of the Supreme Court in paragraph 12 are instructive and hence, extracted below :

“12. It is true that where an award is made by Lok Adalat in terms of a settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But

¹¹ (2008) 2 SCC 660

where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.”

30. In the case of Bhargavi Constructions and Anr. (supra), on which reliance was placed by Mr. Tajane, the Supreme Court enunciated that the law laid down by the three Judge Bench of the Supreme Court in the case of Jalour Singh and Ors. (supra), is binding on all the Courts in the country by virtue of the mandate of Article 141 of the Constitution of India. The High Court was (in the said case), therefore, not right in bypassing the law laid down by the Supreme Court on the ground that the suit can be filed to challenge the award if the challenge is founded on the allegations of fraud. The said decision in the case of Jalour Singh and Anr. (supra), constitutes a law within the meaning of expression ‘law’ occurring in clause (d) of Rule 11 Order 7 of the Code.

31. The aforesaid decisions are required to be kept in view while appreciating the submissions on behalf of the Respondent that the only

remedy for the Petitioner is to approach the Lok Adalat which had passed the award and agitate the ground of fraud in obtaining the said award. The Supreme Court has expounded in clear and explicit terms that the remedy available to a party who wishes to assent the award passed on settlement is to approach the writ Court. The enunciation of law by the Supreme Court cannot be diluted by canvassing a submission that since the determination of question of fraud would be rooted in facts, writ Court would not be the appropriate forum and such an investigation can only be done by the Lok Adalat which had passed the award.

32. I am afraid to accede to a broad submission that whenever there is an allegation of fraud, the writ Court ought to usually remit the matter back for the determination of the Lok Adalat, de hors the facts of the case. I am unable to persuade myself to agree with the submission of Ms. Deshpande that such a proposition flows from the decision of the Supreme Court in the case of K. Srinivasappa (supra). In the said case, the Supreme Court had interfered with the order passed by the High Court, setting aside the award passed by the Lok Adalat primarily on the ground that the High Court had not ascribed any justifiable reasons to come to the conclusion that the award passed by the Lok Adalat was vitiated by fraud. The Supreme Court in terms recorded that the order passed by the High Court was sans any reasons. The observations in paragraph Nos.27 and 29 make this position abundantly

clear. They read as under :

“27. At the outset, we observe that we do not find any reason forthcoming from the judgment of the High Court while setting aside the order of the Lok Adalat dated 07th July, 2012 whereby the terms of the compromise were recorded. To recall a compromise that has been recorded would call for strong reasons. This is because a compromise would result ultimately into a decree of a Court which can be enforced just as a decree passed on an adjudication of a case. This is also true in the case of a compromise recorded before a Lok Adalat.....

28.....

29. While we recognize 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. (emphasis supplied)

33. In fact, the Supreme Court, in terms, recognized that the writ petition would be maintainable against the award of the Lok Adalat. The fact that the High Court had set aside the award without ascribing any reason to arrive at a finding that the award passed by the Lok Adalat was vitiated by fraud, that weighed with the Supreme Court in the case of K. Srinivasappa (supra). The

correct reading of the judgment in the case of K. Srinivasappa (supra), in my considered view, does not support the submissions canvassed by Ms. Deshpande that, where there are allegations of fraud in obtaining the award of the Lok Adalat, the Writ Court cannot delve into the same. The orders passed by this Court in the cases of Mogya Tembrya Vasave and Ors. (supra), Baliram Krushna Salunke (supra), and Aminabi Mohammad Nawaj Burhan (supra), remitting the matters to the Lok Adalat do not delve into this aspect of the matter, especially with reference to the enunciation of law by the three Judge Bench of the Supreme Court in the case of Jalour Singh and Anr. (supra). I am, therefore, not inclined to sustain the challenge to the maintainability of petition on the ground that the only remedy available to the Petitioner is to approach the Lok Adalat, which had passed the award.

34. This propels me to the merits of the challenge to the impugned award. I propose to consider the challenge in two parts. First, the legality and correctness of the procedure which eventually resulted in passing of the impugned award. Second, the substance of the matter which emerges from the material available on record and bears upon the allegations of fraud.

35. On the aspect of the procedure, it is imperative to note, the suit was instituted on 16 February 2019. Learned Civil Judge passed an order on 18 February 2019 issuing summons to the Defendant to appear and file written statement on 17 March 2019. Indisputably, 17 March 2019 happened to be

the Sunday. Summons ought not to have been made returnable on a non-working day. Vitiating seems to have commenced since inception. Why summons was made returnable on 17 March 2019 which appeared to be the scheduled date of National Lok Adalat, remains unexplained.

36. At this stage, the provisions contained in Sections 19 and 20 of the Act, 1987, extracted above, deserve to be noted. Lok Adalat shall have the jurisdiction to determine and to arrive at a compromise or settlement in respect of any case pending before the Court for which Lok Adalat is organized. Section 20(1) envisages such reference where parties thereof agree for the reference to the Lok Adalat or one of the party makes an application to the Court and the Court is prima facie satisfied that there are chances of such settlement. The proviso to Section 20 mandates that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such Court, except after giving reasonable opportunity of being heard to the parties. Under clause (ii) of sub-section (1) of Section 20, reference can be made to the Lok Adalat, if the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat.

37. In the case at hand, the matter does not seem to have been referred to the Lok Adalat in any of the modes envisaged by Section 20 of the Act, 1987. The fact that the summons was not served on the Petitioner – Defendant and she had appeared before the Lok Adalat on her own, becomes evident from

the perusal of the compromise pursis (Exh.8). It, inter alia, records that after the Defendant came to know about the institution of the suit, she appeared before the Court, on her own, albeit with a view to amicably resolve the dispute.

38. These circumstances, cumulatively, indicate that the matter was placed before the Lok Adalat without following the statutory provisions. This aspect of the matter bears upon the determination, if viewed through the prism of the situation in life of the Petitioner.

39. On the substance of the claim of the Respondent, it is pertinent to note that, the suit for partition and separate possession of the Respondent's share in the suit land, is indeed, as vague as possible. The Respondent asserted, the Petitioner was his maternal aunt. The suit land was the ancestral joint Hindu Family Property. The Respondent and the Petitioner had undivided interest in the suit land. There was no partition by meets and bounds. The Respondent had called upon the Petitioner to partition the suit land. The latter refused. Hence, the suit.

40. Neither the names of other co-sharers in the suit land were disclosed. Nor they were impleaded as parties to the suit. On the contrary, it was asserted in paragraph no.5 of the plaint that there were other co-sharers in the suit land. However, the Respondent did not wish to raise any dispute about their entitlement, and, hence, they were not impleaded as party to the

said suit. Who were the other co-sharers, what would be the quantum of the share of the Petitioner, Respondent and the other co-sharers in the suit land, were left to the imagination of the Court.

41. At this stage, the character of the suit property assumes critical salience. The claim of the Petitioner that she had acquired the suit property under the Registered Sale Deed dated 3 June 1983 finds support in the copy of the Sale Deed and the mutation of the name of the Petitioner to the record of rights of the suit land vide M.E.No.1089. Declaratory decree passed by the Civil Court in SCS No.119 of 2008 further fortifies the claim of the Petitioner that she was the absolute owner of the suit property. Instrument of Sale coupled with the declaratory decree, prima facie, dismantle the claim of the Respondent that the suit property is the ancestral joint family property of the Respondent and the Petitioner.

42. The confusion is further confounded by the nature of the compromise arrived at between the parties under the Compromise Memo (Exh.8). Under the said Compromise Memo, the Petitioner allegedly relinquished her interest in the suit land to the extent of 1 H 70 Are in favour of the Respondent. It implies that the Respondent had already an interest in the suit land as a co-sharer. Prima facie, the material on record shows to the contrary.

43. Lastly, the execution of the Agreement dated 26 May 2020 further exacerbates the situation. Under the said agreement, the Respondent

claimed that he had agreed to pay a sum of Rs.12 Lakhs to the Petitioner. Out of the said amount, a sum of Rs.8 Lakhs was already paid and the balance would be paid as and when demanded by the Petitioner. The recitals in the said agreement dated 26 May 2020 are plainly at variance with the compromise pursis (Exh.8). The alleged relinquishment of the interest of the Petitioner in the suit land under the consent terms was gratuitous and sans any consideration.

44. A half-hearted attempt was made by the Respondent to support the contention that he had paid an amount of Rs.8 Lakhs to the Petitioner on various dates without placing on record any material to substantiate the said claim.

45. If all these facts are considered in the light of the efforts in the past to divest the Petitioner of her property by obtaining the instruments from her, as is evident from the decree in SCS No.119 of 2008, then the claim of the Petitioner that she was made to execute the compromise pursis (Exh.8) by mis-representing the character of the document she was made to sign, appeals to human credulity.

46. In the totality of the circumstances, especially having regard to the situation in life of the Petitioner and the nature of the claim in the suit in RCS No.159 of 2019 in which the Award came to be passed, an inference becomes sustainable that the said award is vitiated by fraud.

47. A useful reference in this context can be made to the judgment of Madhukar Baburao Shete (supra), wherein in an identical fact situation, this Court had held that the award passed without following the procedure envisaged by Section 20 of the Act, 1987 is illegal. The observations in paragraph No.39 are material, and hence, extracted below :

“39. Thus, for the reasons recorded above, I am of the opinion that in the present case, there is neither an order of reference made as contemplated under sub-section (1) of Section 20 nor an award made by the Lok Adalat as contemplated under sub-sections (3) and (4) of Section 20. The endorsement made on Exhibit 1 of the Plaint in Regular Civil Suit No. 781 of 2017 issuing suit summons making it returnable on a non-working Saturday is illegal. There is no justification for preparing a board dated 9th September 2019, which is a non-working Saturday. Administrative Order dated 6th September 2017 issued by the Chairman of the Taluka Legal Service Committee cannot be termed as an Order making a valid reference for transferring the pending cases to the Lok Adalat. The Committee was under obligation to follow the procedure contemplated under Section 20 of the said Act. In the present case, in the absence of a valid Order by the concerned Court making a reference under sub-section (1) of Section 20, the Committee had no authority to transfer the pending cases to the Lok Adalat directly. In the present case, the approach adopted by the concerned Court, the Committee and the Lok Adalat panel shows an undue haste only for the purpose of showing that a large number of matters were disposed of in Lok Adalat. A complete

disregard for the procedures under the said Act read with the relevant provisions of CPC, has defeated the very object and purpose of the Lok Adalat. Hence, the order dated 9th September 2017 passed by the learned 2nd Joint CJJD and JMFC, Barshi, below Exhibit 1, disposing of the suit is clearly without jurisdiction, and the Award of the Lok Adalat is illegal.”

48. The conspectus of aforesaid consideration is that the facts which have emerged are so gross that, in exercise of writ jurisdiction, this Court can legitimately draw an inference that the award is vitiated by fraud. Therefore, remitting the matter back to the Lok Adalat to determine the legality and validity of the consent terms (Exh.8) is not warranted. Instead, the award deserves to be quashed and set aside in its entirety and the suit restored to the file of the Court for afresh decision in accordance with law.

49. Hence, the following order :

ORDER

- (i) The Writ Petition stands allowed with costs.
- (ii) The impugned Award dated 17 March 2019 stands quashed and set aside.
- (iii) RCS No.159 of 2019 stands restored to file of the learned Civil Judge, Madha, Solapur.
- (iv) The parties shall appear before the trial Court on 23 June 2025.

(v) The trial Court shall proceed to hear and decide the said Suit in accordance with law.

(vi) In the meanwhile, ad-interim order passed by this Court on 11 March 2023 shall continue to operate for a further period of three months from the date of appearance of the parties before the trial Court, during which period the Petitioner – Defendant may take out appropriate proceedings seeking appropriate reliefs.

(vii) Rule made absolute in the aforesaid terms.

(viii) In view of the disposal of the Writ Petition, Contempt Petition also stands disposed.

(N.J.JAMADAR, J.)