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C.R.P.No.2454 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2025

Coram

The Hon'ble Mr.Justice N.Sathish Kumar

C.R.P.No.2454 of 2023

Alfred William @ Albert William

rep. By his Power of Attorney

Miss : K.Violet Mary

.. Revision Petitioner

Vs.

1. G.Selvaraj
2. G.Peter Marshall
3. G.Lawrence Nelson
4. Mary Margaret
5. F.Lourdmary
Irudayaswamy (deceased)
6. Lourdsamy
7. Joseph Antony Amalraj
8. Fanny Amala

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in L.A.O.P.No.238 of 2021 by the District Legal Services Authority at Udhagamandalam dated 09.09.2017 and to set aside the judgment and decree passed based on the Joint Compromise Memo of Lok Adalat Award in O.S.No.22 of 2011 on the file of the District Judge, Udhagamandalam.

For Revision Petitioner : Mr.P.Sam Japa Singh

For Respondents 1-3 & 5-8 : Ms.L.Arptha for

Mr.D.Lourthu Paul Belson

For Respondent-4 : No appearance



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ORDER

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Challenge in this Revision Petition is to the order passed by the District Legal Services Authority at Udhagamandalam in L.A.O.P.No.238 of 2021 and to set aside the judgment and decree passed based on the Joint Compromise Memo of Lok Adalat Award in O.S.No.22 of 2011 on the file of the District Judge, Udhagamandalam.

2. The learned counsel appearing for the revision petitioner would submit that the suit has been originally filed by the respondents 1 to 3/plaintiffs for partition of the suit property and to lot 1/6th share to the plaintiffs; that it is averred in the plaint that the property was originally owned by one Francis Thevar, who had four children, viz., i) Rajamanickam, ii) Chellamary, iii) Amalorpavamary and iv) F.Lourdmary; that the entire property has been bequeathed by the said Francis Thevar in favour of his son Rajamanickam vide a sale deed, registered as Document No.12 of 1954 dated 24.09.1954; that the said Rajamanickam having had no lineal descendants, he purported to have adopted the second defendant as his son; that though the plaint proceeded, as if, adoption is not recognized under the law, the written statement filed by the defendants treating the second defendant as son of the



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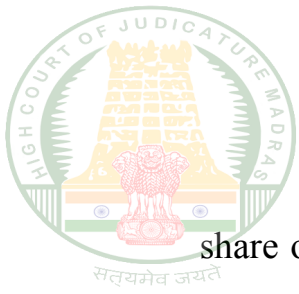
said Rajamanickam is not disputed; that while things stood thus, the matter

has been referred to the Lok Adalat by the plaintiffs and few defendants and the parties have entered into a compromise and based on the said memo of compromise, award has been passed, the defendants 2, 3 and 4 have not even signed either in the compromise memo or the Award. Therefore, it is contended by the learned counsel that when the revision petitioner was not even aware of the lok adalath proceedings, as he has not even participated in the such and did not sign the Memo of Compromise or the award and the joint Memo of Compromise is signed only by four defendants out of seven defendant, award has been passed in the absence of defendants 2, 3 and 4 is not valid in the eye of law and hence, prayed to set aside the award.

3. The learned counsel for the respondent fairly submitted that the defendants 2, 3 and 4 in the suit have not signed the award.

4. Heard the learned counsel appearing for the revision petitioner and respondents 1 to 3 and 5 to 8 and perused the materials placed on record.

5. Though the suit has been originally filed for partition of 1/6th



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share over the suit property, the revision petitioner claims right over the suit property on the basis of the adoption, whether such adoption is recognized in their respective personal law or not has to be seen in a different context taking into account the admission of the parties in the suit. Admittedly, the respondents 1 to 3/plaintiffs have impleaded the second defendant in the suit proceedings. Thus, when the revision petitioner is made as party defendant in the suit, any order/award/decreed is obtained, without his presence or notice, in view of this Court, cannot be binding on the revision petitioner. De hors the same, award has been passed without the signature of all the parties to the suit, as, there are other two defendants, viz., defendants 3 and 4, who were excluded apart from the revision petitioner.

6. Therefore, the award obtained behind the back of the the defendants 2, 3 and 4 cannot have any sanctity of law. It is relevant to mention here that the award passed by the Lok Adalath has to acquire a character of the Civil Court decree, for which purpose, there must be proper opportunity to all the parties to the suit and only in the presence of all the parties and with their individual consent, award ought to have been passed. When some of the



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parties alone have entered into a compromise, excluding the necessary parties, (who would claim right/title/interest over the property) and based on such compromise, if an award is passed, such award cannot be treated as valid in the eye of law. Hence, this Court is inclined to set aside the award passed by the Lok Adalath.

7. Accordingly, the Revision Petition is allowed, the award passed by the Lok Adalath in L.A.O.P.No.238 of 2021 is set aside. Consequently, the suit in O.S.No.22 of 2011 is restored to its own file, and the same shall be decided on merits. No costs.

20.01.2025

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Index : Yes/no

To

1. The District Legal Services Authority,
Udhagamandalam.
2. The District Judge, Udhagamandalam.

N.Sathish Kumar,J.,



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