

W.A(MD) No.18 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 06.03.2025**

**CORAM**

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN  
AND  
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

**W.A(MD) No.18 of 2022  
and  
C.M.P.(MD)No.436 of 2022**

V.Shanthi ... Appellant / 4<sup>th</sup> Respondent

Vs

1.K.Subbaiah ... 1<sup>st</sup> Respondent / Petitioner

2.The District Collector,  
Tuticorin District, Tuticorin.

3.The Tahsildar, Vilathikulam-Taluk,  
Tuticorin District.

4.The Taluk Legal Service Committee,  
District Munsif Court,  
Vilathikulam,  
Tuticorin District.

... Respondents / Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order in W.P.(MD)No.14974 of 2019, dated 21.12.2021 on the file of this Court.



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For Appellant : Mr.F.X.Eugene  
For Respondents : Mr.K.Prabhu for R1  
: Mr.S.R.A.Ramachandran  
Special Government Pleader for R2 to R4  
: Mr.M.Mohammed Imran  
for M/s.Ajmal Associates for intervenor

### **ORDER**

**(By G.R.SWAMINATHAN, J.)**

Heard the learned counsel for the appellant and the learned counsel for the writ petitioner / R1 and the learned Special Government Pleader for R2 to R4 and the learned counsel for the intervenor (Thiru.Arockiasamy, Superintendent, Office of the Tahsildar, Vilathikulam).

2.One Kandasamy Reddiyar passed away on 27.08.2016. The writ petitioner / Subbaiah claimed that he is one of the Class II legal heirs. On the other hand, the appellant Shanthi claimed that she was the daughter of Kandasamy Reddiar, having been born through one Chennammal. Shanthi applied to the Tahsildar, Vilathikulam for issuance of legal heir certificate. The Tahsildar, Vilathikulam after conducting enquiry issued

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the memorandum dated 19.12.2016 informing Shanthi that since objection has been received from Subbaiah, legal heir certificate cannot be issued to her and that the matter has to be resolved only by the jurisdictional civil Court. After receiving the said memorandum dated 19.12.2016, Shanthi instituted O.S No.31 of 2017 before the District Munsif Court, Vilathikulam. This suit was referred for resolution before the Lok Adalat. The hearing before the Lok Adalat was conducted on 09.09.2017. Before the Lok Adalat, the Tahsildar, Vilathikulam agreed to issue legal heir certificate in favour of Shanthi / Plaintiff. Recording the terms of the settlement, award was passed on 09.09.2017. Subbaiah was not made as defendant in the suit. When Subbaiah came to know of the passing of the Lok Adalat award, he filed W.P.(MD)No.14974 of 2019 challenging the same. After hearing both sides, the learned single Judge vide order dated 21.12.2021 set aside the award and allowed the writ petition. Aggrieved by the same, Shanthi, the fourth respondent in the writ petition has filed this writ appeal.

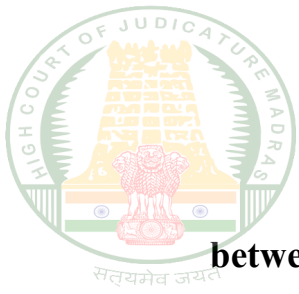
3.We have to observe at the very outset that the suit itself was bad for non-joinder of necessary party. The memorandum dated 19.12.2016



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issued by the Tahsildar, Vilathikulam clearly mentioned that in view of the objection received from Subbaiah, the legal heirship certificate as sought for by Shanthi could not be granted. Therefore, the said objector, namely, Subbaiah is a necessary party to the suit and he ought to have been shown as one of the defendants. Shanthi obviously tried to obtain a decree behind the back of Subbaiah. The suit itself ought to have been dismissed on this ground.

4.The issue that calls for consideration is whether the Civil court could have referred a dispute of this nature to Lok Adalat and whether the impugned award is liable to be set aside. Section 89 of CPC states that the court may refer the dispute to Lok Adalat in accordance with the provisions of Sub-Section (1) of Section 20 of the Legal Services Authorities Act, 1987. Section 20(1)(ii) of the Legal Services Authorities Act states that where in any case referred to in clause (i) of sub-section (5) of Section 19, the court is **satisfied** that the matter is an **appropriate one** to be taken cognizance of by Lok Adalat, the court shall refer the case to the Lok Adalat. Section 19(5)(i) states that the Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement



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**between the parties to a dispute** in respect of any case pending before any court for which the Lok Adalat is organised.

5.Thus, according to Section 20(1)(ii) of the Legal Services Authorities Act, 1987, the court has to be “**satisfied**” that the matter is an “**appropriate one**” to be referred to Lok Adalat. The term “satisfied” contemplates satisfaction arrived at after adequate deliberation. The Court ought to be convinced or persuaded to come to the said conclusion before recording such a satisfaction. Duty is cast upon the court to inquire whether the matter is an appropriate one to be referred to Lok Adalat or not. The word “appropriate” has been defined in P.Ramanatha Aiyar's Advanced Law Lexicon as meaning “suitable, proper, fitting”. In the present case, the matter pertained to issuance of legal heir certificate. The plaintiff claimed that she was the sole legal heir of the deceased Kandasamy Reddiar. Her claim has been contested by Subbiah. Subbiah even challenged the marital relationship between Chennammal and Kandasamy Reddiar. Thus, when there is a rival claimant and the said rival claimant has deliberately not impleaded as a party-defendant, the matter was not at all an appropriate one to be referred to Lok Adalat.



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Secondly, legal heirship which is a matter of status and which confers a right in rem could not have been settled in Lok Adalat. It is only the Civil Court that can grant a declaratory status. In any event, this was not a matter that could have been settled between the plaintiff and a government official before the Lok Adalat behind the back of the rival claimant. Section 19(5) of the Act talks about parties to a dispute. Merely because the District Collector and the jurisdictional Tahsildar have been shown as defendants, they do not become parties to the dispute. Subbiah and Shanthi are the parties to the dispute. Thus, reference to the Lok Adalat of the subject dispute is patently without jurisdiction.

6.A Lok Adalat award is amenable to challenge under Articles 226 and 227 of the Constitution of India on certain grounds. If the reference by the court under Sections 19 and 20 of the Legal Services Authorities Act, 1987 is illegal and without jurisdiction, that is a ground for assailing the eventual award passed by the Lok Adalat. The learned Single Judge was right in coming to the conclusion that the award was vitiated by illegality and fraud. It was rightly set aside.



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7.The learned counsel for the intervenor states that aggrieved by the direction to initiate departmental action, Thiru.Arockiasamy has independently filed a writ appeal. It is also stated that there was delay in filing the appeal and that the delay was condoned today. The said writ appeal will be decided by the Hon'ble Division Bench which is seized of the matter. We express no opinion in that regard.

8.This Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**(G.R.S., J.) & (M.J.R., J.)**  
**06.03.2025**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
rmi/SKM



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**G.R.SWAMINATHAN, J.**

**AND**  
**M.JOTHIRAMAN, J.**

rmi/SKM

To

- 1.The District Collector,  
Tuticorin District,  
Tuticorin.
- 2.The Tahsildar,  
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