



W.P.(MD).No.12721 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2025

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.12721 of 2017

Sofia

...Petitioner

Vs

1.The Presiding Officer,
District Munsiff Court, Eraniel,
Kanyakumari District.

2.Allwyn

3.Leela Pushpabai

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the Lok Adalat Award passed by the first respondent in O.S.No.32 of 2014 and O.S.No.130 of 2014 on the file of the District Munsif, Eraniel dated 29.04.2015.

For Petitioner : Mr.C.K.M.Appaji

For R2 & R3 : Mr.K.K.Senthilvelan



W.P.(MD).No.12721 of 2017

ORDER

WEB COPY Heard learned counsels on either sides.

2. This Writ Petition has been filed challenging the award passed by the lok Adalat on the ground of fraud.

3. The learned counsel for the petitioner would contend that the petitioner was pursued to enter into a compromise to a suit filed by her and believing the words of the counsel, she had accepted compromise proposal placed in the Lok-Adalat. Fearing for her life and life of her minor son, the petitioner had agreed upon the terms of the compromise memo. However, after the award was passed, the 2nd and 3rd respondents formed a layout and even sold her share of land. Therefore, the learned counsel for the petitioner would contend that the petitioner was coerced into entering the compromise through fraudulent means. He would further submit that fraud has been played before the Lok Adalat which in itself is a sufficient ground to set aside the order. The fraudulent conduct is apparent on the face of the award, rendering it unjust. Therefore, he would submit that there are no disputed questions of fact that need to be decided in this Writ Petition, as the fraud is self-evident.



W.P.(MD).No.12721 of 2017

4. The learned counsel for the petitioner had also relied upon the judgment of the Hon'ble Apex Court in the case of ***K.Srinivasappa and others v. M.Mallamma and others*** reported in ***(2022) 17 SCC 460*** specifically paragraph 34. This judgment supports the contention that a Writ Petition is maintainable against the award of the Lok Adalat, particularly when allegations of fraud in obtaining the award for compromise are made.

5. Countering his arguments, the learned counsel appearing for the private respondents would submit that pursuant to the Lok Adalat award, parties had altered their position and acted in accordance with the terms of the said award. He would further submit that the petitioner herself has also acted based upon the award and therefore she cannot claim that the award has been made fraudulently. Therefore, he would pray this Court to dismiss the writ petition.

6. The learned counsel for the respondents also relying upon the very same judgment relied upon by the petitioner, however draws attention of this Court to paragraph 40 of the said judgment, and would submit that the Apex Court in the said case has held that the parties



W.P.(MD).No.12721 of 2017

WEB COPY

seeking to avoid the terms of the consent decree has to establish the same before the Court that had passed the decree and therefore would submit that the writ petition cannot be entertained, as the issue of fraud raises a disputed question of fact that must be resolved by the Court that originally passed the decree.

7. I have considered the submissions made on either side and perused the materials available on record.

8. A reading of the judgment relied upon by the learned counsels on either side would draw me to the conclusion that even though the Apex Court has held that the Writ Petition would be maintainable had held that an award of Lok Adalat cannot be reversed or set aside without setting aside the facts recorded in such award has been fraudulently arrived at. The Hon'ble Apex Court after discussion of various judgments has held that it only be imperative for the parties seeking to avoid terms of the consent decree to establish before the Court that passed the same that the agreement on which the consent decree is based is invalid and illegal. However, on the facts of the said case, the Hon'ble Apex Court has held with the High Court had not entered into any



W.P.(MD).No.12721 of 2017

discussions as to findings that there was fraud committed in the compromise and therefore set aside the order passed by the High Court.

For better appreciation, the relevant paragraphs of the said judgment is extracted hereunder:

“34. While we recognise 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, dehors 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 fraudulently arrived at.

*40. In **Pushpa Devi Bhagat v. Rajinder Singh**, this Court held that since no appeal would lie against a compromise decree, the only option available to a party seeking to avoid such a decree would be to challenge the consent decree before the court that passed the same and to prove that the agreement forming the basis for the decree was invalid. It is therefore imperative that a party seeking to avoid the terms of a consent decree has to establish, before the Court that passed the same, that the agreement on which the consent decree is based, is invalid or*



W.P.(MD).No.12721 of 2017

illegal.”

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9. Even though fraud has been alleged, the same has been sought to be brushed aside by contending that the petitioner had been acted upon the Joint memo of compromise upon which the award had been passed. Therefore, this Court must not only examine whether fraud occurred, but also investigate into the facts surrounding the parties' actions based on the award, which involves multiple disputed questions of fact. This Court cannot undertake such an examination under Article 226 of the Constitution of India.

10. With the above observations, this Writ Petition is disposed of with liberty to the parties to approach the appropriate civil court to redress their grievances. If they approach the civil court, the period of pendency of the writ petition shall stand excluded while calculating the period of limitation for instituting a suit. There shall be no order as to costs.

06.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
nst



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W.P.(MD).No.12721 of 2017

To:

The Presiding Officer,
District Munsiff Court, Eraniel,
Kanyakumari District.



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W.P.(MD).No.12721 of 2017

K.KUMARESH BABU, J.

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W.P.(MD).No.12721 of 2017

06.01.2025