

(2011) 06 MAD CK 0305

In the Madras High Court

Case No : Writ Petition No's. 12812 and 12813 of 2011 and M.P. No's. 2 and 2 of 2011

B.V. Bhuvaneshwari

APPELLANT

Vs

Mr. P. Perumalappan Head of Panel, Smt. C. Sriranjani First
Panel Member Lok Adalat, Smt. G. Jeyalakshmi Second Panel
Member Lok Adalat and Mr. P.V. Ganesh The Branch Manager
Central Bank of India

RESPONDENT

Date of Decision : 24-06-2011

Acts Referred:

Legal Services Authorities Act, 1987 — Section 20

Citation : (2011) 06 MAD CK 0305

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : R. Amardeep, for the Appellant; M.R. Gokul Krishnan, for R4, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The Petitioner has come to this Court challenging the award dated 07.03.2011 passed by the Lok Adalat for Loan A/c. Nos. 1832928195 and 1832928184, on the ground that the Lok Adalat has wrongly passed the award without following the mandatory procedure laid down under chapter VI, Section 20 of the Legal Services Authorities Act, 1987.

2. Learned Counsel for the Petitioner contended that the impugned award passed by the Lok Adalat is invalid on the basis of the records, as the Terms of Settlement was not signed by the parties to the proceedings. According to him, the impugned award having been passed as a result of fraud and coercion and not in accordance with law, is liable to be set aside. It is submitted that there was a Pre-Litigation case filed by the fourth Respondent Bank viz., Central Bank of India, Chennai, before the Lok Adalat and the same was listed for hearing and settled on 07.03.2011 and such fact was not informed to the Petitioner by the

fourth Respondent. Cleverly, she was asked to accompany the fourth Respondent to the place of Lok Adalat for the purpose of setting the loan due payable by her husband, with a warning by the fourth Respondent that if the Petitioner fails to accompany the fourth Respondent to the place where the Lok Adalat is holding its proceedings, the Petitioner's property would be brought for auction. In view of such threat, the Petitioner went along with the fourth Respondent to the Lok Adalat and finally, she was made to sign two documents in English. Since she did not know the English language, without being given to understand the contents, the Petitioner signed the documents and based on the same, the Lok Adalat has passed an award. The impugned award passed by the Lok Adalat in the above background for balance due towards loan Account No. 1832928184 and another loan Account No. 1832928195 with the fourth Respondent, will not have legally binding effect either upon the Petitioner or her husband as the two awards were obtained by way of fraud and coercion as there is a clear case of fraud committed by the fourth Respondent colluding with the Lok Adalat and the Petitioner is actually not a party to the proceedings and no signature was obtained from the Petitioner's husband in the Settlement Memo. Learned Counsel relied upon the judgment of the Hon'ble Apex Court in the case of State of Punjab and Another Vs. Jalour Singh and Others, , for the proposition that 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 any case pending before any Court for which the Lok Adalat is organised, and that if the Lok Adalat has passed any award not based on the consent or settlement between the parties, such acts will drive the litigant away from Lok Adalat. In the present case, though the Petitioner's husband has taken loan along with the Petitioner, the Lok Adalat having passed the award without the signature of the Petitioner's husband, the same cannot be legally sustained. On that basis, learned Counsel prayed for setting aside the impugned award passed by the Lok Adalat.

3. A detailed counter affidavit has been filed by the fourth Respondent, in which, it is stated that the Petitioner and her husband are borrowers and had availed a secured loan (A/c. No. 1832928195) of Rs. 4,50,000/-by way of Equitable Mortgage by deposit of title deeds on 07.07.2005 and the other personal loan (A/c. No. 1832928184) of Rs. 1,00,000/-was by the Petitioner's husband B.T. Venugopal who executed necessary documents on 13.01.2006. Therefore, it is submitted that it is not proper for the learned Counsel appearing for the Petitioner to say that the Petitioner is not a debtor. Since the Petitioner is also a borrower in one of the loan accounts, she too has every right and locus standi to participate in the Lok Adalat proceedings. Therefore, she cannot plead or feign ignorance and attribute fraud on the part of a quasi judicial authority, that too, after participating in the proceedings. When the Lok Adalat issued notice in the name of the Petitioner's husband B.T. Venugopal, the same was served upon the Petitioner. After receiving the said notice, the Petitioner, who is the wife of B.T. Venugopal and also a co-borrower of loan, voluntarily came to the Lok Adalat since her husband was not able to participate in the proceedings, and willingly

agreed to the terms and conditions before the award was passed by the Lok Adalat. Therefore, the Petitioner is not entitled to challenge the award and, being a co-borrower, she cannot plead ignorance and attribute fraud

4. Considered the rival submission advanced on either side.

5. At the first instance, it must be pointed out that, if the Petitioner was not agreeable to the terms and conditions of the settlement, she could have then and there expressed her position, but, without disagreeing with the terms and conditions, she consented for an award being passed by the Lok Adalat award. After passing of the impugned award, she willingly signed the same, therefore, it is not now open for the Respondents to plead ignorance and allege fraud or malafides on the part of the Respondents/Bank or the Lok Adalat. The Petitioner/co-borrower, along with her husband, who borrowed a loan for a sum of Rs. 4,50,000/-and another loan for a sum of Rs. 1,00,000/-by depositing the title deeds on 07.07.2005, only after receipt of the notice issued by the Lok Adalat, attended the proceedings before the Lok Adalat on behalf of her husband as he was not able to participate and, after the Lok Adalat proceedings were over, she herself signed the proceedings and only thereafter, the award and, being a co-borrower, she cannot plead ignorance and attribute fraud. award came to be passed. The case of the Petitioner that she was not sent by her husband and she was forcibly taken by the fourth Respondent does not appear to be correct and it does not stand to any logic. Hence, I do not find any merit in these Writ Petitions and they are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.