
(2017) 10 AP CK 0048
In the Andhra Pradesh High Court
Case No : 25121 of 2017

Nallala Anjavva, W/o Abbaiah

APPELLANT

Vs

The Lok Adalat Bench at Sircilla

RESPONDENT

Date of Decision : 27-10-2017

Acts Referred:

Citation : (2017) 10 AP CK 0048

Hon'ble Judges : C.V.Nagarjuna Reddy, K.Vijaya Lakshmi

Bench : DIVISON BENCH

Advocate : T.Surya Satish, J.Anil Kumar, Venkateshwar Varanasi, T.Balamohan Reddy, K.Venu Madhav, P.V.Narayana Rao

Judgement

1. This Writ Petition is filed by defendant Nos. 4 and 5 in O.S.No. 146 of 2012 on the file of the Court of Senior Civil Judge at Sircilla filed for partition and separate possession of agricultural land admeasuring Ac. 2.06 guntas in survey No. 373 of Venkatrapally of Narsingapur Revenue Village filed by respondent No. 2.

2. The petitioners pleaded that petitioner No. 1 is daughter-in-law of late Baswaiah and petitioner No. 2 is her daughter. They have claimed interest over 1/3rd share in the joint ancestral property left behind by Sri Nallala Sayebu which is subject matter of the suit. It is their further pleaded case that recently they have noticed that respondent No. 21 started construction over a part of the suit schedule property; that when they objected to the same, the said respondent informed them that he acquired rights over part of the suit schedule land on the strength of Lok Adalat Award dated 06-01-2017 passed by respondent No. 1 and that the subsequent information gathered by them revealed that the advocates in collusion with respondent Nos. 2 to 22 forged the petitioners' thumb impressions and made false representations in order to usurp their 1/3rd share in a fraudulent manner. The petitioners have alleged that no notice was served on them to appear either before the civil Court in which the suit was instituted or before the Lok Adalat. The petitioners also made certain allegations against respondent Nos. 22 and 23, the advocates who appeared for

some of the respondents in the suit. For disposal of the Writ Petition, these allegations need not be considered.

3. The sum and substance of the grievance of the petitioners is that behind their back, respondent No. 2 in collusion with respondent No. 19 to 21 got the suit referred to Lok Adalat and without any notice to them, the Lok Adalat passed Award on 06-01-2017. The gist of the Lok Adalat Award has been referred to in para No. 9 of the affidavit filed in support of the Writ Petition which reads as under: "The A Part admeasuring Ac. 0.20 Gts. was allotted to Plaintiff, Defendant No. 2 and 14 to 18 together jointly and part B land admeasuring Ac. 0.02 Gts was allotted to Defendant No. 20 and C Part admeasuring Ac. 1.00 Gts. was allotted to Defendant No. 21 and D Part admeasuring Ac. 0.03 Gts. was allotted to Defendant No. 10 and E Part admeasuring Ac. 0.04 Gts. was allotted to Defendant No. 8 by recording that an extent of Ac. 1.31 Gts. is available after the Respondent of the land got merged with PWD road situated to the south of the suit schedule property. It was further recorded in the Compromise that the sale deeds Document Nos. 4487/2011 dated 05-08-2011, 4488/2011 dated 05-08-2011, 5071/2011 dated 27-08-2011, 5321/2011 dated 03-09-2011 and 329/2012 dated 20-01-2012, registered gift settlement deed Document No. 3842/2012 dated 12-06-2012 and other registered sale deeds bearing Document Nos. 3843/2012 dated 12-06-2012, 3844/2012 dated 12-06-2012, 6332/2015 dated 13-11-2015 and 6071/2016 dated 28-09-2016 of the office of the Sub-Registrar Vemulawada are declared as null and void in terms of the compromise."

4. Respondent Nos. 22 to 24 filed separate counter affidavits. Being the advocates, their counter affidavits may not be of relevance. In the counter affidavit filed by respondent No. 21 on behalf of himself and respondent Nos. 19 and 20, they have denied the allegation that no notices were served on the petitioners in the suit. He has further stated that the petitioners were not at all parties to the Lok Adalat Award dated 06-01-2017 and that therefore the said Award has not been passed against them.

5. Learned counsel for respondent No. 2 has not been present during the two hearings including that of today. Learned counsel for respondent Nos. 6 to 8, 10, 11 and 19 to 21 submitted that as the petitioners were set ex parte in the suit and the Award not being passed against them, they cannot be treated as aggrieved parties and that if they are aggrieved by the Award, they are entitled to avail appropriate legal remedies.

6. Sri T.Surya Satish, learned counsel for the petitioners, submitted that respondent No. 1 committed a serious error in passing the impugned Award without ensuring that all the parties to the dispute in O.S.No. 146 of 2012 entered into a compromise and appeared before it. In support of this submission, he has placed reliance on order dated 06-07-2017 in W.P.No. 46801 of 2016 (Sai Vuma Chit Fund Company & Group of Companies Suffers Welfare Association Vs. The State of Andhra Pradesh). He has further submitted that by passing the

Award, the interests of his clients have been seriously jeopardized as they will now be forced to initiate a fresh round of litigation for challenging the Lok Adalat Award.

7. We have considered the respective submissions of learned counsel for both parties. In *Sai Vuma Chit Fund Company* (supra), this Court has dealt with a more or less similar situation, whereunder Lok Adalat Award dated 07-12-2015 in W.P.No. 18653 of 2011 was challenged. The said Writ Petition was filed questioning G.O.Ms.No. 205 dated 07-08-2010 attaching the properties of M/s. Sai Vuma Chit Fund Company and its Group of Companies before the order of attachment was made absolute. During the pendency of the said Writ Petition, final attachment of the properties was made by learned Metropolitan Sessions Judge, Vijayawada. The Writ Petitioner and respondent No. 2 in the Writ Petition requested this Court to refer the dispute to Lok Adalat. On such reference, the Lok Adalat passed its Award dated 07-12-2015 based on a compromise entered into between the Writ Petitioner and respondent No. 2. A Welfare Association of M/s. Sai Vuma Chit Fund Company and its Group of Companies filed W.P.No. 46801 of 2016 before this Court questioning the said Award. After referring to various provisions of Andhra Pradesh Protection of Depositors of Financial Institutions Act, 1999, National Legal Services Authority (Lok Adalats) Regulations, 2009 (for short, "2009 Regulations") and Andhra Pradesh State Legal Services Authority Regulations, 1999 (for short, "1999 Regulations"), this Court held as under: "In our opinion, when any of the parties to the proceeding before the Lok Adalat does not appear for any reason, it is not permissible for the Lok Adalat to act on the settlement entered into by the other parties for, it will not be exercising its adjudicatory power when it passes an Award based on a settlement simplicitor. In a case as the one on hand, when respondent Nos. 4 to 6 herein have not entered appearance on receipt of notices in Writ Petition No. 18653 of 2011, the Lok Adalat had no option other than closing the proceeding and referring the said Writ Petition back to this Court." In this view of the matter, we hold that the impugned Lok Adalat Award, drawn based on the settlement between respondent Nos. 2 and 3 leaving out respondent Nos. 4 to 6, is not in conformity with the Regulations referred to above and it suffers from an incurable legal defect on this count also."

8. Learned counsel for the respondents sought to distinguish the judgment in *Sai Vuma Chit Fund Company* (supra) with the present case by pointing out that in the former case, all the parties were before the Lok Adalat and that in that context, this Court observed that when respondent Nos. 4 to 6 did not appear before the Lok Adalat, it should not have passed the Award. In our opinion, there is no difference between a case where all the parties were shown to have been before the Lok Adalat and a case where some of the parties to the litigation were not parties before the Lok Adalat. As held by this Court in *Sai Vuma Chit Fund Company* (supra), while passing its Award based on settlement simplicitor, the Lok Adalat will not be exercising its adjudicatory power and that under Regulation 17 (1) of 2009 Regulations, drawing up of the Award is merely an

administrative act by incorporating the terms of settlement or compromise agreed between the parties under the guidance and assistance from Lok Adalat. Under Regulation 39 (2) of 1999 Regulations, the parties to the dispute shall be required to affix their signatures or, as the case may be, thumb impressions on the Award of the Lok Adalat. In our opinion, the expression "the parties in dispute" is referable to the parties in original dispute before the Court which has been referred to Lok Adalat. If a few of the parties to the dispute are allowed to file compromise petition to the exclusion of other parties, that would give rise to serious complications leading to litigation taking different turns. Such an approach is neither contemplated under the Act or the Regulations made thereunder nor the same is desirable. After all the intendment of law in envisaging settlement of disputes before Lok Adalats is to ensure that all the parties to the dispute arrive at a mutually agreed settlement, so that there will not be further litigation in relation to the dispute which was initially brought before the Court and later referred to the Lok Adalat. Even if some of the parties to the dispute originally instituted remained ex parte, that hardly justifies the Lok Adalat to ignore them while considering passing of the Award, for even the parties who are set ex parte also have certain rights to pursue their claim further by filing an application for setting aside the ex parte orders or even by filing appeals on merits if they suffer an order or judgment adverse to their interests. Therefore, the fact that the petitioners were set ex parte would not justify respondent No. 1 to allow some of the parties to the suit to enter into a compromise and pass the Award. This course, instead of settling the dispute between the parties once and for all, would have the effect of opening the floodgates of litigation.

9. For the aforementioned reasons, the impugned Lok Adalat Award is not sustainable and the same is accordingly set aside. The Writ Petition is allowed. O.S.No. 146 of 2012 on the file of the Court of Senior Civil Judge, Sircilla, shall be restored to file and proceed from the stage at which it was referred to the Lok Adalat.

10. As a sequel to disposal of the Writ Petition, W.P.M.P.No. 31150 of 2017 shall stand closed as infructuous.