
(2017) 01 CHH CK 0004
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 331 of 2015

Sanjay Agrawal

APPELLANT

Vs

Presiding Officer, Mega/ National Lok Adalat

RESPONDENT

Date of Decision : 04-01-2017

Acts Referred:

Constitution of India, 1950 — Article 226
Legal Services Authorities Act, 1987 — Section 20

Citation : (2017) AIRCC 1615

Hon'ble Judges : P. Sam Koshy, J.

Bench : Single Bench

Advocate : Yogesh Pandey, R. K. Bhagat, Rakesh Kumar Thakur

Final Decision : Disposed Off

Judgement

Shri. P. Sam Koshy, J.—The present Writ Petition under Article 227 of Constitution of India has been filed challenging the order passed by the Presiding Officer, Lok Adalat, Bench No. 13, Raipur on 06.12.2014 in Succession Case No. 06/2006.

2. The brief facts in nutshell relevant for the adjudication of the present Petition is that Respondent No. 2 was plaintiff before the Court below. He had initially filed suit before the First Civil Judge, Class -1, Raipur seeking succession under Section 372 of the Indian Succession Act on 19.08.1998 which was subsequently renumbered as Succession Case No. 06/06. The Petitioner before this Court was Defendant No. 2 before the Court below. The present Petitioner was proceeded ex-parte before the Court below. And the application under Order 9, Rule 13 for setting aside the ex parte order was also dismissed by the Court below. Meanwhile, the Lok Adalat was held on 06.12.2014 whereby the Defendant No. 1 and the Plaintiff made a request for referring the matter to the Lok Adalat. Accordingly the case was put forth before the Lok Adalat.

3. It is pertinent to mention that when the matter was referred to the Lok Adalat

held on 06.12.2014, no fresh notices were issued to any of the parties particularly the present Petitioner who was Defendant No. 2 before the Court below in respect of the matter being referred to Lok Adalat. For this reason he could not appear before the Lok Adalat on 06.12.2014 for resolving the dispute amicably, between the parties. All the contesting parties except the present Petitioner had entered into an agreement (Raji Nama) in respect of the distribution of the suit property among the legal heirs of late Indu Agrawal who also happens to be the step mother of the present Petitioner also entitled for a share in the suit property. The said Raji Nama was executed without the knowledge of the present Petitioner, neither was he a signatory to the said Raji Nama which the other legal heirs of Late Indu Agrawal proposed and they also accepted for a share to be given to the Petitioner to the extent of 1/3rd of the property in the name of Late Indu Agrawal. Accordingly, the suit i.e. the Succession Case No. 06/06 was disposed off on 06.12.2014 in accordance with the terms entered into in the Raji Nama. It is only when subsequently Defendant No. 1, 3 and 4 filed a caveat petition against the disposal of the case before the Lok Adalat was served to the Petitioner only then he came to know about the disposal of the civil suit. Hence this present Petition seeking for recalling of the order passed by the Lok Adalat and for listing of the case for disposal on its merits.

4. Learned Counsel for the Petitioner submits that the matters which are disposed off in Lok Adalat are all invoking the provisions of Section 20 of the Legal Services Authorities Act, 1987 (hereinafter for short "the Act"). According to the Counsel for the Petitioner the said provision of law requires providing opportunity of being heard to the parties before the matter is referred to the Lok Adalat. This also implies that all the parties to the dispute before the Civil Court are required to be noticed either before sending the matter to the Lok Adalat or when the matter is registered before Lok Adalat. It should also be ensured that all the parties to the dispute are agreeing for the disposal of the suit. According to the Counsel for the Petitioner merely because the Petitioner has been proceeded ex-parte before the suit does not mean other contesting parties have right for taking unilateral decision including interest of the Petitioner without even taking consent of or being intimated about the matter being placed before the Lok Adalat. Thus prayed for quashing of the order passed by the Lok Adalat on 06.12.2014 and ordering the matter to be decided on merits afresh by the Court below.

5. Learned Counsel for the Respondent-plaintiff submitted that the Civil Court in the instant case was proceeded ex-parte against the Petitioner and that he had moved an application for setting aside the ex parte order which has been rejected and as such the matter stood closed so far as the present Petitioner's interest in the suit is concerned. Therefore the other contesting parties including the plaintiff together had entered into a Raji Nama and have requested for disposal of the suit in the Lok Adalat and therefore, the impugned order does not warrant any interference and the Petition deserves to be rejected.

6. Having considered the rival contention put forth on either side what is necessary to know is the fact that the decisions in Lok Adalat are taken in view of the provisions of the Act. Section 20 of the said Act deals with the issue of cognizance of cases by the Lok Adalat. For ready reference Section 20 (1) is reproduced herein under:-

"20. Cognizance of cases by Lok Adalats.

1. Where in any case referred to in clause (I) of sub-section (5) of Section 19-

(I) (a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,

the court shall refer the case to the Lok Adalat:"

7. A perusal of the proviso of the said Section clearly envisages that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (I) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

8. Now in the instant case when we look in to the facts what is apparent on the face of record is that the present Petitioner was the defendant No.2 in the civil suit which was filed before the Court below. Though the Petitioner has been proceeded ex parte, he had also moved an application under Order 9, Rule 13 of the Cr.P.C. for setting aside the ex parte order which too has been rejected. This by itself can not be said that the Petitioner has lost his claim or right in the said suit. The Petitioner could still challenge the judgment of the Court below in case if it would have been decided on merits by preferring an appeal against the said order. Now since the matter has been settled before Lok Adalat the Petitioner does not have right or scope to challenge the order before an appellate forum. The order passed by the Lok Adalat was also without his consent nor was it with his knowledge. The Plaintiff and other Respondents have entered into an agreement without taking the Petitioner into confidence nor was he informed or his consent obtained and therefore the said Raji Nama can not be truly said to be a Raji Nama between the disputing parties without the Petitioner being involved in the said agreement.

9. What is also pertinent to mention is the fact that the Petitioner was also not noticed before the matter was referred to the Lok Adalat nor was he informed about the matter being disposed off in the Lok Adalat. In absence of either of the two the order of the Lok Adalat per se is bad in law and also in contravention to the provision under Section 20 of the Act and therefore would not be sustainable. The very purpose of the constitution of the Lok Adalat is for disposal of cases

with the consent of the disputing parties. When the matter is referred to a Lok Adalat it is necessary that all the parties to the dispute are taken into confidence or all the parties jointly make request for disposal of the suit or the case is referred after arriving at a consensus between all the parties to the dispute. In other words without the consent of all the parties in the suit or the case, the matter can not be disposed off by Lok Adalat.

10. It was incumbent upon the Respondents in the present Petition who were Plaintiff as well as other defendants before the Civil Court to have informed the Petitioner in respect of the settlement arrived at and should have also informed the Petitioner in respect of the matter being referred to the Lok Adalat and also should have been informed about the Raji Nama that was entered into between the parties. Lastly the Petitioner should have also been informed about the matter being listed on 06.12.2014 before the Lok Adalat for final disposal in the light of the compromise.

11. In the light of the aforesaid deficiency / defaults, this Court has no hesitation in reaching to the conclusion that disposal of the suit by the Lok Adalat held on 06.12.2014 was not proper, legal or justified as the petitioner herein who was also party to the suit before the Court below was not taken into the confidence for the purpose of disposal of the matter and also not taken into confidence for the purpose of entering into Raji Nama between the parties.

12. Thus, the impugned order dated 06.12.2014 passed by the Lok Adalat deserves to be set aside / quashed.

13. At this stage Counsel for the Respondent - plaintiff and other contesting defendants submit that the Court below may be directed to decide the matter within a stipulated period of time taking into consideration the fact that the matter is pending before the Court below since 1998.

14. The said submission of the Counsel for the Respondents seems to be fair proposal and the same is therefore accepted.

15. As such the order passed by the Lok Adalat on 06.12.2014 is set aside. The suit i.e. Succession Case No.06/2006 stands restored to its original number.

16. Since all the parties to the dispute are represented before the Court today, they are directed to appear before the Court below on 6th February, 2017 and thereafter the matter shall be proceed in accordance with law from the stage it was otherwise fixed before the matter was referred to Lok Adalat.

17. Taking into consideration the fact that the matter was originally instituted in the year 1998, this Court feels it proper to direct the Court below to try and dispose off the matter as early as possible preferably within a period of 6 months from 6th February, 2017 on which date all the parties to the case present before this Court shall appear before the Court below.

18. With the aforesaid directions the present Petition is allowed and disposed off.