
(2012) 02 AP CK 0020

In the Andhra Pradesh High Court

Case No : Writ Petition No. 27867 of 2011

Sri Durga Malleswara Educational Society (Regd),
Vijayawada, Krishna District

APPELLANT

Vs

The District Legal Services Authority (Lok Adalath) and
another

RESPONDENT

Date of Decision : 17-02-2012

Acts Referred:

Andhra Pradesh and Telangana Societies Registration Act, 2001 — Section 30
Constitution of India, 1950 — Article 226, 227
Legal Services Authorities Act, 1987 — Section 19, 19(3), 19(5), 20, 20(2)
Societies Registration Act, 1860 — Section 5, 6
Succession Act, 1925 — Section 223, 236, 276

Citation : (2012) 4 ALD 27 : (2012) 3 ALT 211 : (2012) 2 ARBLR 455

Hon'ble Judges : V.V.S. Rao, J;B.N. Rao Nalla, J

Bench : Division Bench

Advocate : V.R. Avula, for the Appellant; C.V. Mohan Reddy for Sri K.V. Bhanu Prasad for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao

1. The petitioner assails the award dated 29.09.2011 in Lok Adalat Case No. 1890 of 2011 passed by the Lok Adalat, Vijayawada, u/s 19 of the Legal Services Authorities Act, 1987 (the Act). Besides seeking a writ of certiorari to quash the impugned award, a consequential direction is sought to restore the first appeal, being A.S. No. 128 of 2007, on the file of the Court of the VII Additional District and Sessions Judge, Vijayawada.

2. The petitioner is a Society registered in 1969 in the name and style of M/s.Sri Durga Malleswara Educational Society (hereafter called, the Society). It was started with the object of establishing and running educational institutions, in furtherance of which, statedly the Society established such institutions including Sathavahana College at Vijayawada in 1971.

3. The Society entered into an agreement of sale dated 11.12.1971 with the second respondent for the purchase of land admeasuring Acs.2.94 cents in NTS No. 13, Moghalrajapuram, Vijayawada, for establishing Sathavahana College. In addition to the advance payment of Rs. 50,000/- paid on the date of agreement, the Society also made other payments. The second respondent obtained the permission from the Government vide G.O.Rt. No. 2008, dated 13.08.1974, under the Andhra Pradesh Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972, and handed over the said land to the petitioner Society. At the relevant time the Urban Land (Ceiling and Regulation) Act, 1976, came into force and there were related proceedings to which a reference is not necessary for the purpose of this case. The petitioner instituted a suit, being O.S. No. 109 of 2001 on the file of the Court of the I Additional Senior Civil Judge, Vijayawada, for specific performance of agreement of sale dated 11.12.1974 executed by the second respondent. The suit was dismissed on 05.04.2007. The appeal, being A.S.No. 128 of 2007, on the file of the Court of the VII Additional District and Sessions Judge, Vijayawada, was also dismissed.

4. It is the case of the petitioner that Sri V. Kameswara Rao, the Secretary of the Society resigned on 25.07.2011. Sri Alapati Rajendra Prasad (hereafter referred to as, ARP) (deponent of the writ affidavit) was admitted as Patron Member. It is alleged that on 26.07.2011 the Executive Council elected ARP as Secretary and Correspondent and the same was approved by the Commissioner of Collegiate Education (the CCE) vide proceedings dated 26.09.2011.

5. In the meanwhile, Lok Adalat, Vijayawada - first respondent herein - passed the impugned award. The salient features of the same are that A.S.No.128 of 2007 stood dismissed as withdrawn confirming the judgment and decree in O.S.No.109 of 2001; the land admeasuring Acs.5.10 cents in NTS No. 13 of Moghalrajapuram was handed over to the second respondent and his family members along with structures and the keys of the locks were handed over to the second respondent and his family members before the Lok Adalat and in settlement thereof, the second respondent paid an amount of Rs. 9,00,000/- (Rupees Nine Lakhs only) by HDFC Bank Demand Draft No. 051930. The award also recorded that all disputes remaining unsettled shall be treated as null and void, and the petitioner Society was precluded from initiating any civil or criminal proceedings.

6. The petitioner having come to know about the Lok Adalat award filed the instant writ petition. It is contended that when the suit schedule property in O.S.No. 109 of 2001 admeasures Acs.2.94 cents, the Lok Adalat award directing to handover an extent of Acs.5.10 cents is vitiated and is a misrepresentation of material facts; Lok Adalat exceeded its jurisdiction in passing the impugned award and Sri V. Kameswara Rao who signed the compromise memo dated 28.09.2011 ceased to be the Secretary of the petitioner Society, and therefore, there is no valid settlement or compromise between the parties in law.

7. This Court while admitting the writ petition on 12.10.2011 passed orders

suspending the impugned award. The second respondent filed W.V.M.P. No. 4068 of 2011 along with counter affidavit and other documents. The issues for the purpose of W.V.M.P and the main writ petition being common, with the consent of the Counsel, the writ petition itself is heard for final disposal.

8. In the counter affidavit filed by the son and the GPA holder of the second respondent, his case is as follows. The second respondent and his wife Smt.B.Vijaya Lakshmi are absolute owners and possessors of open land admeasuring Acs.5.10 cents in NTS No. 13 of Moghalrajapuram, which fell to the share of the second respondent in family partition. He gifted some portion to his wife. In a rented premises at Satyanarayanapuram, the petitioner was running a Junior College and a Degree College. The second respondent was a businessman who was regularly travelling. Taking advantage of the situation, the then Secretary, Prajapathi Rao, highhandedly shifted the college to the land of the second respondent and his wife alleging that it was purchased under an agreement of sale dated 11.12.1974. Temporary sheds were erected on the land for running the Junior College.

9. The petitioner society represented by Secretary instituted O.S.No. 109 of 2001 on the file of the Court of the Additional Senior Civil Judge, Vijayawada, against the second respondent for specific performance in respect of land admeasuring Acs.2.94 cents, alleging that the second respondent sold the property under an agreement of sale. The petitioner society also filed another suit, being O.S.No. 110 of 2001 against the wife of the second respondent for similar relief in respect of land admeasuring Ac.1.00. The suit filed against the second respondent was dismissed on 05.04.2007 against which A.S.No. 128 of 2007 was filed on the file of the Court of the VII Additional District and Sessions Judge, Vijayawada, which was also dismissed. There against, the petitioner society filed a second appeal, being S.A.No. 221 of 2009, and the same was dismissed by the High Court on 01.10.2010.

10. As Prajapathi Rao expressed unwillingness to continue in the Office, the general body meeting was convened on 15.01.2009 and new Members were admitted to the petitioner society. V. Kameswara Rao was elected as Secretary and Correspondent who alone was dealing with the CCE with regard to drawing of funds and disbursing of salaries to the staff.

11. The petitioner society having realized that an extent of Acs.2.50 cents of land behind the college was in actual physical possession of the owner and the College is only having possession of the front portion of the land passed resolution to enter into a compromise. In the meanwhile, under an impression that A.S.No. 128 of 2007 (against O.S.No. 109 of 2001) was dismissed for default, the petitioner society filed an application for restoration of the appeal. At that stage, the society represented by Kameswara Rao settled the matter with the second respondent and his family members and filed the terms of compromise. In terms thereof, the Lok Adalat passed an award on 29.09.2011.

12. The second respondent would submit that Kameswara Rao is playing double game for extraneous reasons with the help of his son V. Srinivas who always looks after the affairs of the society on behalf of his father. He is managing the affairs in the name of his father and both of them are hand-in-glove with each other. They brought a new character ARP into the picture for selfish gains. Adverting to the internal disputes among the Members of the Society it is stated that Prajapathi Rao having resigned as Secretary, filed an application before the District Registrar for the year 2009-2010 to accept the list of members of the general body prepared by him, by which time list submitted by Kameswara Rao was accepted. The District Registrar by letter dated 26.04.2010 returned the list, advising to sort out disputes in the competent Court of law. Aggrieved by the same, Prajapathi Rao approached the Registrar General of Societies (the Commissioner and Inspector General of Registration & Stamps, Hyderabad) (hereafter, the Registrar General), who issued a memo on 01.04.2011 directing the District Registrar not to accept any list from 2005-2006 onwards from anybody unless accompanied by Court orders. It was also pointed out therein that the District Registrar erred in taking the lists into records. In furtherance thereof, the District Registrar issued show cause notice dated 16.04.2011 calling upon Kameswara Rao and Prajapathi Rao to show cause as to why lists taken on record should not be deleted for the years 2005-2006 onwards. Aggrieved, the petitioner represented by Kameswara Rao filed W.P.No. 10806 of 2011. By an order dated 19.04.2011 made in W.P.M.P. No. 13281 of 2011 the High Court passed interim orders directing not to delete the names from the Register of members, which is still in force. In the meanwhile, ARP moved the CCE for change of correspondentship. Then Kameswara Rao sent a fax message to the Commissioner informing that he has not resigned as Secretary and that there are internal disputes in the Society. Therefore, the order dated 29.09.2011 passed by the CCE has no relevance.

13. In view of the orders passed by the Registrar General, the District Registrar, as well as the interim orders of the High Court, ARP has no locus standi or authority to file the Writ Petition representing the Society. ARP cannot claim himself to be the Correspondent without establishing before the competent Court that he and his team are properly elected.

14. A reply affidavit is filed on behalf of the writ petitioner, sworn by ARP, with the following allegations and averments. He admits that the second respondent and his wife entered into agreements of sale with the petitioner society on 11.12.1974 and 15.12.1974 agreeing to sell Acs.2.94 cents and Acs.1.00 cents respectively. He also admits the dismissal of the suits for specific performance and appeals arising therefrom. He would submit that the suits were filed by Kameswara Rao as Secretary after Prajapathi Rao demitted Office. The allegation that the petitioner passed resolution authorizing Kameswara Rao to enter into compromise with the second respondent is denied as Kameswara Rao submitted resignation as Secretary on 25.07.2011, which was accepted on 26.07.2011. The second respondent has nothing to do with the affairs of the Society and he

cannot question the locus standi of the person to defend the Society and safeguard its valuable property. The District Registrar vide letter dated 26.04.2010 returned the list of general body members submitted by Prajapathi Rao and accepted the list submitted by Kameswara Rao. When he appealed, the Commissioner directed not to accept the list from 2005-06 and that the list taken on record for that year shall be deleted. When this was challenged by Kameswara Rao in W.P.No. 10806 of 2011, this Court passed orders prohibiting the deletion of names of members.

15. The reply affidavit further states that ARP was inducted as patron member of the petitioner Society in accordance with the bye-laws of the Society. He was elected as Secretary on 26.07.2011, and unanimously nominated to the post of Correspondent of Satavahana College. This was approved by the CCE on 26.09.2011. Though the District Registrar, Krishna District refused to accept the list submitted by the present committee, the same officer certified the annual list for the years 2010-2013. The contention that Kameswara Rao received an amount of Rs. 9 lakhs shows that the fraud is played on the petitioner society. A criminal complaint being F.I.R.No. 351 of 2011, dated 11.10.2011 has been lodged. Kameswara Rao complained that the signatures on the award are forged. He also filed a petition to set aside the award dated 29.09.2011. In view of this, ARP has locus standi to file the present writ petition.

Submissions

16. The counsel for petitioner would submit that when the plaint schedule property in both the suits filed by the petitioner is less than Acs.5.10 cents, the award of Lok Adalat recording that the said extent is handed over to the second respondent is a result of misrepresentation, and therefore, liable to be set aside. Nextly, he would contend that the impugned award is not preceded by any compromise or settlement between the petitioner Society represented by authorized person and the second respondent and that Kameswara Rao who allegedly is a signatory to the award is not authorized to act on behalf of the petitioner Society as he resigned as Secretary on 25.07.2011. He would, therefore, urge that the award is liable to be set aside as not binding on the petitioner. He relied on the judgment of this Court in Smt. Chilukuru Umadevi and Another Vs. Kalidindi Vijaya Lakshmi and Others,

17. The senior counsel for the second respondent would submit that though the land agreed to be sold is less than Acs.5.10 cents, the petitioner occupied the entire extent for the purpose of putting up temporary sheds of Satavahana College. These structures occupied a small back portion of the land and other extent of lands is in possession of the second respondent and his wife. The suits filed by the petitioner were dismissed. Their appeals were also dismissed. However, under the impression that A.S.No. 128 of 2007 filed against O.S.No. 109 of 2001 (suit filed by the petitioner against the second respondent) was dismissed for default, the petitioner moved an application to set aside the ex parte order in the appeal suit. At that stage, visualizing the time that is likely to

take for getting back possession of the land, the second respondent agreed to compromise the matter by parting with an amount of Rs. 9 lakhs. As the entire property belongs to the family of the second respondent, it was agreed between the petitioner and the second respondent and his family to give quietus to all the disputes in respect of the property which formed part of both the suits as well as the land which was in occupation of Satavahana College. Therefore, the petitioner agreed to deliver possession of Acs.5.10 cents to the family members of the second respondent by accepting Rs. 9 lakhs and the amount was paid vide Demand Draft No. 051930 dated 29.09.2011, drawn on HDFC Bank, Vijayawada, which was also encashed by the petitioner Society.

18. The senior counsel would further submit that ARP has no locus standi to file the suit. In view of the disputes between Kameswara Rao group and Prajapathi Rao group, the competent authorities passed orders prohibiting the acceptance of any list of members of general body. Therefore the society cannot nominate anybody as patron member. The contention that ARP was elected as Secretary and Correspondent is belied by the proceedings of the Commissioner, who prohibited any registration of new members and directed deletion of all the members. Suppressing all these, ARP obtained the approval from the Commissioner of Higher Education which is unsustainable in law. The disputes are still to be resolved among the members of the petitioner Society and therefore, ARP cannot claim to be the Secretary and Correspondent. When the compromise was entered into between the petitioner and the second respondent, the Society was represented by Kameswara Rao which is valid. ARP never took any steps before the Court to get the name of the Secretary and Correspondent substituted. The second respondent cannot be made to suffer due to the ongoing disputes among the members of the general body.

The applicable principles of law

(i) Judicial Review of award of Lok Adalat

19. The Legal Services Authorities Act inter alia is intended to organize Lok Adalats to secure the operation of legal system that promotes justice on the basis of equal opportunity. The underlying principle is to amicably settle the legal disputes among the parties to faster post-litigation coexistence and an orderly forward looking society. Lok Adalat is conferred jurisdiction to determine and arrive at a compromise or settlement between the parties to disputes in respect of any case pending before any Court or any matter which is not yet brought before any Court (Section 19(5) of the Act). When a case is referred to Lok Adalat u/s 19(5) on the ground that there are chances of settlement, it has to be decided to arrive at a compromise or settlement guided by the principles of justice, equity and fair play. The Lok Adalat award shall be deemed to be a decree (Sections 19 and 20 of the Act). Sub-section (2) of Section 20 of the Act contemplates the referral of an application from any of the parties at a pre-litigation stage to Lok Adalat by the authority or committee competent to organize the Lok Adalat. Chapter VIA of the Act deals with pre-litigation

conciliation and settlement with which we are not concerned in this case. The underlying aspect to be emphasised is that, "the parties to the dispute" shall have to enter into a compromise or settlement before the Lok Adalat, leading to passing of an award which is equated to a decree.

20. When an award is passed, it shall be deemed to be final and no appeal is provided in the scheme of the Act (Section 21(2) of the Act). If the award was not preceded by a compromise or settlement or if the parties resorted to impersonation or if the settlement is actuated by coercion, fraud or misrepresentation of the parties, what would be the remedy for the parties.

21. In *State of Punjab and Others Vs. Shri Ganpat Raj*, construing the purport of sub-sections (3) and (5) of Section 20 of the Act, the Supreme Court held as follows.

The specific language used in sub-section (3) of Section 20 makes it clear that the Lok Adalat can dispose of a matter by way of a compromise or settlement between the parties. Two crucial terms in sub-sections (3) and (5) of Section 20 are "compromise" and "settlement". The former expression means settlement of differences by mutual concessions. It is an agreement reached by adjustment of conflicting or opposing claims by reciprocal modification of demands. As per *Termes de la Ley*, "compromise is a mutual promise of two or more parties that are at controversy". As per *Bouvier* it is "an agreement between two or more persons, who, to avoid a law suit, amicably settle their differences, on such terms as they can agree upon". The word "compromise" implies some element of accommodation on each side. It is not apt to describe total surrender. (See *NFU Development Trust Ltd., Re* (1973) 1 All ER 135: (1972) 1 WLR 1548 (Ch D)). A compromise is always bilateral and means mutual adjustment. "Settlement" is termination of legal proceedings by mutual consent.

22. In *State of Punjab and Another Vs. Jalour Singh and Others*, the Supreme Court indicated limited judicial review of Lok Adalat award in the following terms.

It is true that where an award is made by the Lok Adalat in terms of a settlement arrived at between the parties (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise.

(emphasis supplied)

23. Dealing with Sections 19 and 20, their Lordships observed as under.

When the LSA Act refers to "determination" by the Lok Adalat and "award" by the Lok Adalat, the said Act does not contemplate nor require an adjudicatory judicial determination, but a non-adjudicatory determination based on a compromise or settlement, arrived at by the parties, with guidance and assistance from the Lok Adalat. The "award" of the Lok Adalat does not mean any independent verdict or opinion arrived at by any decision-making process. The making of the award is merely an administrative act of incorporating the terms of settlement or compromise agreed by parties in the presence of the Lok Adalat, in the form of an executable order under the signature and seal of the Lok Adalat.

(emphasis supplied)

24. It may thus be taken as well settled that the award of Lok Adalat is an administrative act of incorporating the terms of compromise or settlement agreed by the parties in the presence of Lok Adalat and Lok Adalat does not sit in adjudication of the dispute. When an award is passed in terms of the settlement arrived between the parties, which is duly signed by the parties annexed to the award of Lok Adalat, it is binding on the parties and executable as a decree of Civil Court. No appeal would lie against the award of Lok Adalat. If any party wants to challenge such an award, it can be by way of petition under Article 226 or 227 of Constitution, on very limited grounds raised only by parties before Lok Adalat and not by anyone else. One of the possible grounds could be that there is no settlement to pass an award or that settlement or compromise itself is vitiated by fraud or misrepresentation.

(ii) Position of a Society in law and Right to sue

25. Order I of the Code of Civil Procedure, 1908 (CPC) contains general rules as to the parties to the suits before the civil Court. Order XXVII of CPC contains the procedure to be followed in the suits by or against the Government or public officers in their official capacity. The procedure to be followed in the suits by or against partnership firms, trustees, executors and administrators are dealt with by Order XXX and Order XXXI of CPC respectively. When the suits are filed against minors or persons of unsound mind, the procedure contemplated under Order XXXII of CPC has to be necessarily followed. Order XXIX of CPC is the relevant applicable Order insofar as suits by or against Corporations. The Pleadings in a suit by or against a juristic person like a Corporation are to be signed and verified by the secretary or director or the principal officer and in a suit against such Corporation the service of summons or notices on the secretary or director would be sufficient compliance with the rules dealing with service of process. There is no separate set of Rules in the CPC insofar as the suits by or against registered associations or societies are concerned, one has to look to the relevant enactment dealing with this aspect.

26. A society is an association organized for some recognized purpose, be it for charity, business, recreation or social welfare. The Societies Registration Act,

1860 (hereafter, Central Act) is an Act for the registration of literary, scientific and charitable activities. An association or group of similar minded people with a memorandum of association with (objects therefor) the rules and regulations is registrable. All the property of the society, if not vested in the trustees shall vest in the governing body of the society (Section 5) and every society registered under the Central Act may sue or be sued in the name of the President, Chairman or Principal Secretary or trustees as shall be determined by the rules and regulations of the society. The proviso to Section 6 of the Central Act enables to sue the President or Chairman or Principal Secretary or trustees of the society, if no other person is nominated for the purpose. Therefore, though a society can sue and be sued in the name of its President/Chairman/Secretary, the law does not bar suing its members, who as trustees have control over the property.

27. The Central Act applied to Andhra Area of the State. The Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 Fasli (Act 1 of 1350 F) applied to erstwhile Hyderabad State. The Andhra Pradesh Societies Registration Act, 2001 (hereafter, State Act) - a consolidating and amending law - repealed Central Act in its application to Andhra area as well as Act 1 of 1350 Fasli. Sections 3 to 9 of the State Act deal with registration of Societies. In addition, Section 9 of the State Act requires the furnishing of the list of members of the general body every year. The amendments carried out to byelaws, come into effect only when they are certified by the Registrar of Societies. Section 11 of State Act requires a register of members to be maintained besides keeping the accounts and records of the society.

28. The society is not a juristic person like a company incorporated under the Companies Act, 1956. It is not capable of ownership of any property and it cannot be sued in its name like a company. This aspect of the matter was considered by the Supreme Court in the decision discussed in the next paragraph.

29. In *Illachi Devi (D) by Lrs. and Others Vs. Jain Society, Protection of Orphans India and Others*, , the background facts are the following. A philanthropist bequeathed part of his estate to Jain Society registered under the Central Act. The society filed an application for grant of Letters of Administration u/s 276 of the Succession Act, 1925. The appellant, Illachi Devi, and her legal representatives opposed contending that in view of Section 236 of the Succession Act, the application is not maintainable. The High Court of Delhi rejected the same although it was held that under Sections 223 and 236 of the Succession Act, only the persons who suffered legal incapacity to sue or being sued suffered disqualification and that the society may sue or being sued in a representative capacity. In the appeal, the question before the Supreme Court was whether a society registered under the Central Act is entitled to obtain Letters of Administration. In the said context, the Supreme Court considered decisions of Allahabad, Calcutta, Lahore and Patna High Courts as well as the decision of the Supreme Court in *Ayurvedic and The Board of Trustees, Ayurvedic and Unani Tibia College, Delhi Vs. The State of Delhi and Another*, , and laid

down that "a society registered under the Societies Registration Act as contradistinguished from a company registered under the Companies Act cannot sue in its own name. It is to be sued in the name of the President, Chairman, or Principal Secretary or trustees as shall be determined by the rules and regulations of the society or in the name of such person as shall be appointed by the governing body for the occasion in default of such determination. It is, therefore, not correct to contend that it is capable of suing or being sued in its own name. It, in a litigation, must be represented through a person authorised in this behalf either in terms of its bye-laws or otherwise". Further it was observed thus.

A society registered under the Societies Registration Act is not a body corporate as is the case in respect of a company registered under the Companies Act. In that view of the matter, a society registered under the Societies Registration Act is not a juristic person. The law for the purpose of grant of a probate or Letter of Administration recognises only a juristic person and not a mere conglomeration of persons or a body which does not have any statutory recognition as a juristic person. It is well known that there exist certain salient differences between a society registered under the Societies Registration Act, on the one hand, and a company corporate, on the other, principal amongst which is that a company is a juristic person by virtue of being a body corporate, whereas the society, even when it is registered, is not possessed of these characteristics. Moreover, a society whether registered or unregistered, may not be prosecuted in a criminal court, nor is it capable of ownership of any property or of suing or being sued in its own name. Although admittedly, a registered society is endowed with an existence separate from that of its members for certain purposes, that is not to say that it is a legal person for the purposes of Sections 223 and 236 of the Act. Whereas a company can be regarded as having a complete legal personality, the same is not possible for a society, whose existence is closely connected, and even contingent, upon the persons who originally formed it. Inasmuch as a company enjoys an identity distinct from its original shareholders, whereas the society is undistinguishable, in some aspects, from its own members, that would qualify as a material distinction, which prevents societies from obtaining Letters of Administration.

(emphasis supplied)

Question of locus standi

30. Whether the petitioner should be non-suited on the ground that the petitioner under Article 226 of the Constitution is instituted by the petitioner society represented by a person who has not been recognized as one to do so? We are afraid the answer must be in the affirmative in favour of the second respondent for reasons which are more than one. The second respondent would contend that ARP has no legal capacity to represent the petitioner society nor he was specially authorized by governing body to file present writ petition; from the time when the society filed the suits for specific performance of agreements of

sale, it was Kameswara Rao as the Secretary appeared in the suits, appeals and before the Lok Adalat and, therefore, ARP is not a proper person to represent the petitioner society for filing this writ petition. This contention is well supported by various events and official proceedings.

31. Rule 6 of the Rules and Regulations of the petitioner society vests in the Executive Council (EC) the entire responsibility for the good working and progress of the society and its institutions. The EC would elect the President, Vice President, Secretary, Joint Secretary and Treasurer. The term of office bearers of the EC is three years. Rules 8(1)(f), (l) and (m) of the Society Rules provides that the Secretary shall be liable to sue and be sued in the name of the society; shall be ex officio secretary of the institutions owned/managed by the society; and shall be the ex-officio secretary of the governing body of the institutions owned and managed by the society. Therefore it is only the Secretary who can sue and be sued in the name of the Society and Secretary alone shall be the Secretary and Correspondent for the purpose of the Andhra Pradesh Education Act, 1982. There is no dispute that when the petitioner stately entered into agreements, in 1974, with the second respondent and his wife, and filed suits, it was Prajapathi Rao who represented the Society as Secretary of the Society. After dismissal of the suits, the Society filed appeals and it was Kameswara Rao who represented the Society as Secretary. Even before Lok Adalat, he alone represented the Society as its Secretary and signed the compromise memo as admitted in the affidavit accompanying the writ petition. In all these proceedings, nobody much less any member of the Society objected for Kameswara Rao representing the Society to file the suits, appeals and to enter into compromise before the Lok Adalat. It is however contended by the petitioner that due to personal reasons Kameswara Rao resigned as Secretary necessitating the election of ARP as a Secretary after admitting him as a patron member. Whether this event, which allegedly occurred after dismissal of the appeals, invalidates the impugned award of the Lok Adalat and confers locus standi on ARP.

32. The Secretary Kameswara Rao submitted resignation on 25.7.2011. The EC met on 26.7.2011. While accepting the resignation, it was resolved to admit ARP as patron member. In the same meeting he was declared elected as Secretary. The EC in its meeting on 01.8.2011 nominated ARP as Correspondent. When this was communicated, by proceedings Rc.No. 1101/Admn.I-1/2011, dated 26.9.2011, the CCE approved the change in correspondent-ship of Satavahana College. Thereafter by proceedings dated -nil-, the Secretary and Correspondent furnished the specimen signatures of ARP to all the concerned including the Banks. Curiously, these proceedings (page 88 of the writ petition) were issued in the name of Kameswara Rao. It was obviously issued after the Executive Council met on 01.8.2011 and therefore even after ARP was allegedly nominated as Secretary and Correspondent, it was only Kameswara Rao who continued to be as Secretary and Correspondent. Therefore the case projected by the petitioner is doubtful.

33. Further, on 01.4.2011 the Registrar General by memo No.Soc2/1849/2010, dated 01.4.2011, directed to delete from the records the list of members which was accepted by the District Registrar, Machilipatnam. The said memo is self-explanatory and reads as under.

Registrar General of Societies and Commissioner and Inspector General of Registration & Stamps, Andhra Pradesh, Hyderabad

Memo. No. Soc2/1849/2010,

dated 01.4.2011

Sub: Societies - Sri Durga Malleswara Educational Society - Complaint report - Req - Reg.

Ref: C&IG's office memo No. Soc2/1849/2010, dated 15.02.2010.

The attention of the District Registrar, Machilipatnam is invited to the reference cited. It is informed that the lists from 2005-06 of the society are caught in controversy on organizational matters. In so far as taking in to records these lists the District Registrar erred in taking them in to records when gaping blanks of date of notice of meeting existed in the accompanying minutes. He also failed to reconcile the mismatch among the signatures of body up to 2005-06 and those thereafter. He had also failed to appreciate the fact that when the General Body Membership is 9 as per the signatures and 7 members resigned how the quorum subsisted while the society became defunct. It is also not known how a defunct society can admit new members and proceed to face them in Governing Council. In short it is very clear that provisions of the Societies Registration Act, 2001 were not explicitly followed resulting in an erroneous entry taken in to records.

Therefore it is ordered U/S 30 of A.P. Societies Registration Act, 2001 that the lists erroneously taken in to record without proper scrutiny from 2005-06 onwards shall be deleted from the records. He is also directed not to accept any list from 2005-06 onwards from any body unless accompanied by Court approval orders the entire correspondence is enclosed herewith. The entire files sent by him and returned herewith. Further he is directed to report compliance by 10.04.2011 while acknowledging the receipt of the records/correspondence by return post. Encl: Pages 1 to 946.

Sd/- Registrar General of Societies

33. About four months thereafter the petitioner sent the list of members of general body. In response thereto the District Registrar, Machilipatnam while returning the list of members, addressed a letter dated 01.8.2011 informing the petitioner that the list of members for 2010-2011 cannot be taken on record until the settlement of disputes by the Court. Aggrieved by the same, the society represented by Kameswara Rao filed W.P.No. 10806 of 2011 and also sought suspension of the letter of the District Registrar. While admitting the writ petition, by order dated 19.4.2011 in W.P.M.P.No. 13281 of 2011 this Court directed the

Registrar General and the District Registrar not to delete the names from the register.

34. In the light of various events and proceedings as above, it is ununderstandable as to how the EC members of the society could have elected/nominated ARP as Secretary and Correspondent. The orders issued by the Registrar General, the District Registrar and the dispute raised in W.P.No. 10806 of 2011 would lead to the conclusion that the whole issue of list of members is in dispute. There is a direction by this Court not to delete the name of anybody. It is binding on all the members of the society. In that view of the matter, the resolutions removing Kameswara Rao as Secretary and admitting ARP as member and electing/nominating him as Secretary and Correspondent cannot be recognized in law. It appears that all the disputes and the proceedings pending before the Court were not brought to the notice of the CCE who approved the change of Correspondentship. When the very admission/election of ARP as member/secretary of the society is illegal, no importance can be attached to the proceedings of the CCE. For these reasons, this Court is persuaded to countenance the submission of the second respondent that ARP has no locus standi to represent the society. Therefore, the writ petition as instituted is not maintainable as it is not properly presented as per the law laid down by the Supreme Court in *Illachi Devi* and Rule 8(1)(f) of the Society Rules.

Validity of the award

35. The award passed by the Lok Adalat in a pending litigation or in a pre-litigation case is not ordinarily amenable to judicial review. But when an award of the Lok Adalat is obtained by misrepresentation, fraud or without due compliance with the provisions of the Act and that it was not preceded by compromise/settlement, it can be challenged in writ petition. The petitioner has not made out any of these grounds. Though allegations are made about resignation of Kameswara Rao who represented the petitioner before the award, in view of the findings on the question of locus standi, this submission is devoid of merit. Further, ARP or the society did not take any steps before the Court or Lok Adalat for getting the name of the authorized representative of the society substituted. Indeed there is no dispute that though the suits were filed by the petitioner represented by the then Secretary Prajapathi Rao, in the appeals Kameswara Rao represented the petitioner society. Further more the second respondent has placed before this Court a certificate issued by the HDFC Bank Ltd., Near Benz Circle, Vijayawada to the effect that the GPA of the second respondent obtained demand draft in favour of the petitioner for Rs. 9,00,000/-. This probablises the factum of payment of money by the second respondent in obedience to the award of the Lok Adalat. When the award of the Lok Adalat has been acted upon, this Court must decline to exercise discretion in favour of the petitioner. For these reasons the impugned award of the Lok Adalat is unassailable.

36. In the result for the above reasons the writ petition fails and is, accordingly, dismissed. There shall be no order as to costs.