

GAHC030001182022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/1/2022

Smt. Sangluri
Kolasib Venglai, Mizoram

VERSUS

Sh. H. Lalhmingmawia and 3 Ors.
Mission Vengthlang, Aizawl, Mizoram

2:Smt. Thanmawii
Laipuitlang
Aizawl
Mizoram

3:Smt. Lalkhumi
Dawrpui Vengthar
Aizawl
Mizoram

4:Smt. Zonuni
Special Officer
Social Welfare Department
Aizaw

Advocate for the Petitioner : Mr Lalremtuanga
Advocate for the Respondent : Mrs. Dinari T. Azyu for R4

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

JUDGEMENT & ORDER (CAV)

Date : 14.11.2024

Heard Mr. Lalremtluanga, learned counsel for the petitioner. I have also heard Mr. L.H. Lianhrima, learned Sr. counsel for respondent No. 3, assisted by Ms. Ruth Lalruatfeli and Mr. Victor L. Ralte, learned counsel for respondent No. 4. Respondents Nos. 1 and 2 remain unrepresented though notice was served upon them by dasti mode as reflected in the order dated 20.09.2022

2. The instant petition under Article 227 of the Constitution of India is for setting aside and quashing the Award dated 26.10.2019 passed by the Lok Adalat, Aizawl District Legal Service Authority under Section 19 of the Legal Services Authority Act, 1987 in connection with LA case No. 344 of 2019.

3. Mr. Lalremtluanga, the learned counsel for the petitioner submits that the impugned Lok Adalat Award dated 26.10.2019 is liable to be set aside, on the grounds that the Civil Suit No. 6/2009 was referred to Lok Adalat by the Court of Civil Judge (Senior Division), Aizawl, wherein the instant petitioner was not made a party. The Lok Adalat had acted beyond its powers conferred under sections 19 and 20 of the Legal Services Authority Act, 1987, in making the award against the petitioner, whereas she was not a party to the dispute in Civil Suit No. 6/2009. He also submitted that the summons were issued to her through the OC Bawngkawn, Aizawl and therefore, she was compelled to appear before the Lok Adalat under threat and coercion by the police. The learned counsel further submitted that the petitioner was also made to sign on the impugned award under threat, whereby, she did not fully understand the terms of the impugned Lok Adalat Award nor did she understand its full implication when she was made to put her signature on the award. The learned counsel thus submitted that this matter should be referred back to the Court of Civil Judge (Senior division) for disposal on merits, wherein, before the case was

referred to Lok Adalat, evidence and hearing in the case was completed and the Civil Suit No. 6/2009 was reserved for judgment by the Civil Judge (Senior division).

4. The learned counsel for the petitioner also explained that a copy of the impugned Lok Adalat award was delivered to the petitioner only on 08.03.2022 and therefore, there was a delay in filing the instant Civil Revision Petition.

5. The learned counsel for the petitioner relied on the decision of a Coordinate Bench of this Court in ***Neihkimi Vs H. Thangseia*** in CRP No. 4/2020 dated 23.06.2021, wherein the Coordinate Bench of this Court, had set aside the award passed by Lok Adalat on finding that the Lok Adalat had exercised power beyond its jurisdiction. The learned counsel submitted that in the instant case also, the Lok Adalat had exercised its power beyond its jurisdiction by making the petitioner a party and wherein she was made put her signature on the impugned Award under threat and coercion.

6. Mr. L.H. Lianhrima, learned Senior Counsel on the other hand submitted that the impugned award is dated 26.10.2019, however, the instant petitioner has approached this Court only on 05.04.2022 thus there was a delay of almost 3 years in approaching this Court. The learned Sr. counsel submitted that even though there is no prescribed limitation period under Article 227 of the Constitution of India, there should be a satisfactory explanation given for the said delay. The learned Senior counsel has relied on the case of ***Bithika Mazumdar & Anr. Vs. Sagan Pal & Ors.***, reported in ***(2017) 2 SCC 748*** (para 4).

He further submitted that the limited grounds for setting aside an award

made in the Lok Adalat is, if it is found that there is a manifest miscarriage of justice, which is not so in the instant case.

7. The learned Sr. counsel also submitted that, under Section 22 of the Legal Services Authority Act, 1987, Lok Adalat has the power to summon and enforce attendance of witness and examine thereof, and also have the power to specify its own procedure for the determination of any dispute coming before it. In terms of the said powers, the instant petitioner was also made a party and accordingly summoned since her presence was found necessary for arriving at a settlement.

The learned Sr. counsel further submitted that the present petitioner, being an adult lady, cannot be said to have been forced to put her signature under threat.

8. The learned Senior counsel has relied on the decision of the Apex Court in ***Hemantha Kumar Vs. R. Mahadevaiah & Ors.***, reported in ***(2022) 8 SCC 140*** by mentioning that the Lok Adalat was presided over by a learned Trial Judge and therefore, the issue of there being any threat or coercion at the time when the petitioner put her signature does not arise. The learned Sr. counsel has also relied upon the Judgments of the Apex court in ***State of Punjab Vs. Jalour Singh & Ors.***, reported in ***(2008) 2 SCC 660*** (para 12) and ***Radhey Shyam & Anr. Vs. Chhabi Nath & Ors.***, reported in ***(2009) 5 SCC 616*** (para 31) by mentioning that the powers under Article 227 of the constitution should be exercised sparingly and only when there is manifest miscarriage of justice.

9. Mr. Victor L. Ralte, learned counsel for respondent No. 4 submitted that, as

mentioned by the learned Senior counsel, no explanation has been given for the delay in filing the instant Civil Revision Petition. He submits that the Civil Revision Petition was filed only after notice was issued to the present petitioner in Execution Case No. 11/2022 A/o Lok Adalat Case No. 344/2019. He further submitted that the instant petitioner had no grievance against the award at the time of passing the award wherein, she had willingly put her signature, but has now approached this Court, only on receiving the notice in the Execution Case No.11/2022.

The learned counsel further submits that the instant petitioner is a Government Servant working as a Microscopist under the Health & Family Welfare Department and therefore, she is able to understand the nature of the award passed and the consequences in putting her signature in the impugned award.

10. The learned counsel has also led this Court to the contents of the Lok Adalat Award dated 26.10.2019, wherein it was decided at the Lok Adalat that the petitioner should repay the respondent No. 4 the sum of Rs. 5 lakhs which was borrowed by the deceased husband of the petitioner, by mortgaging the LSC No. 571 of 1978, which belonged to the present respondent No. 1. In terms of the Award Lok Adalat, once the said sum of Rs. 5 lakhs was paid to him/respondent No. 4, the respondent No.4 would release the said LSC No. 571 of 1978, to the present respondent No. 1. The learned counsel submitted that, on reading the terms of the award, there is no manifest miscarriage of justice since the present respondent No.4 is entitled to receive back his Rs. 5 lakhs, which was borrowed by the late husband of the petitioner and the borrowed Rs. 5 lakhs was utilized by the petitioner.

11. The learned counsel further submitted that the explanation given by the petitioner, for the delay in filing the instant is not a sustainable explanation, since the petitioner had put her signature on the award on the day the award was made, thus she was well aware of the contents and the terms and conditions of the award. The learned counsel has relied on the judgment of the High Court of Jammu & Kashmir in ***Bashir Ahmad Malik Vs. Chief Judicial Magistrate &Anr.*** in WP(C)No. 1914/2023 dated 09.08.2023 (para 2 & 6), wherein it was held that the petitioner cannot be allowed to resile from a compromise on frivolous grounds .

12. I have considered the submissions made by the learned counsels for both the parties and I have also perused the impugned Award dated 26.10.2019 passed by the Lok Adalat held at Aizawl District, organized by the District Legal Services Authority, Aizawl. The contents of the award duly signed by the present petitioner Smt. *Sangluri* the present respondents no. 1, *Sh. Lalhmingmawia*, the present respondent No. 2, *Smt. Thanmawii* and present respondent No. 3 *Smt. Lalkhumi* was signed in the presence of the presiding Judicial officer and two conciliators. The impugned Lok Adalat award is as follows:-

“The dispute between the parties having been referred for determination to the Lok Adalat and parties having compromised/settled the case/matter, the following award is passed under the terms and settlement.

That the OP No 3 Smt Sangluri w/o Pachhunga (L) Kolasib Venglai shall redeem the LSC No 571 of 1978 from OP No 4 Smt Zonuni, Special Officer Social Welfare Department, GOM Laipuitlang Aizawl by paying Rs 5,00,000/ (Rupees five lakhs) only with interest at the rate of 9% per annum to be calculated from the month of June 2008 till payment in full.

Payment for redemption shall be completed with 3 (three) months from

today.

On redemption the OP No 4 shall release the said LSC No 571 of 1978 to the petitioner Sh H. Lalhmingmawia of Mission Veng, Aizawl without any delay.

The parties are informed that the court fee if any, paid by any of them shall be refunded. "

13. At this stage, this /Court finds it appropriate to highlight the brief background of the case. The present respondent No. 1 Sh. H. Lalhmingmawia is the owner of LSC No. 571 of 1978 and Sh. Mr. Pachhunga is the late husband of the present petitioner, who is said to have borrowed the sum of Rs. 5 lakhs from respondent No. 4 Smt. Zonuni, by mortgaging the said LSC No. 571 of 1978. The present respondent No. 1 had then filed the Civil Suit No. 6/2009 for recovery of his LSC No. 571 of 1978 by making the present respondent Nos. 2, 3 & 4 as defendant Nos. 1, 2 & 4 respectively and the late husband of the present petitioner, Sh. Pachhunga as defendant No. 3. During the pendency of the Civil Suit, Sh. Pachhunga late husband of the present petitioner died on 10.10.2010, but no substitution application was made before the learned Civil Judge (Senior Division). The Civil Suit No. 6/2009 proceeded before the Senior Civil Judge, and evidence stage is completed, the parties are yet to submit their arguments before the Court of Senior Civil Judge, Aizawl however, the matter was then referred by the Senior Civil Judge for settlement at Lok Adalat, whereby the impugned award was made.

14. From the submissions made by the learned counsels for both the parties, the main issue or points for consideration are:-

(i) Whether the instant revision petition against the Award dated 26.10.2019 can be considered after a lase of almost 3 years, wherein the present petitioner

had preferred to file the Civil Revision Petition only on 05.04.2022 .

(ii) Whether the Lok Adalat had acted beyond its jurisdiction in making the petitioner a party in the Lok Adalat while she was not a party in the connected Civil Suit No. 6/2009 and in issuing summons to the petitioner to appear before the Lok Adalat by issuing notice to her through the OC, Bawngkawn Police Station and thereafter making the impugned award, wherein the present petitioner was held liable to pay the sum of Rs. 5 lakhs to respondent No. 4.

15. It is seen that the Apex Court in ***Bithika Mazumdar v. Sagar Pal, (Supra)*** held that:-

“4. It is an admitted position in law that no limitation is prescribed for filing application under Article 227 of the Constitution. Of course, the petitioner who files such a petition is supposed to file the same without unreasonable delay and if there is a delay that should be duly and satisfactorily explained. In the facts of the present case, we find that the High Court has dismissed the said petition by observing that though there is no statutory period of limitation prescribed, such a petition should be filed within a period of limitation as prescribed for applications under Section 115 of the Code of Civil Procedure. This approach of the High Court cannot be countenanced. As mentioned above, in the absence of any limitation period, if the petition is filed with some delay but at the same time, the petitioner gives satisfactory explanation thereof, the petition should be entertained on merits.” The Apex Court in this case had allowed the revision application after a delay of more than 9½ years by observing that petitioners are the widow and minor daughter of the deceased and the case deserved to be decided on merits.

16. In the present case, the explanation given by the petitioner was that a copy of the award was received by her only on 08.03.2022 and that she did not understand the full implication of the award when she was threatened and forced to put her signature on the impugned Award on 26.10.2019. This Court considering that the present Civil Revision Petition is filed under Article 227 of the Constitution of India, wherein there is no limitation period prescribed, finds it fit to consider the revision petition on merits, on finding that there is a fair possibility that she did not understand the full implication of her putting her signature on the impugned award on 26.10.2019. It cannot be presumed that the petitioner would be fully aware of the procedures under Lok Adalat and the consequences of her putting her signature, especially when it appears that she was summoned through the OC, Bawngkawn, in a case where she was previously not made a party.

17. This Court finds that Chapter VI of the Legal Services Authorities Act, 1987 provides for the function of Lok Adalat. Under sub-section 5 of section 19 of the Legal Services Authority Act, 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—

“(i) any case pending before; or

(ii) any matter which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organised:

.....

Further Section 20 of the Act provides as follows:-

“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:

Provided 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.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties. ”

18. On a reading of the above provisions of law, it is clear that, no case is to be referred to Lok Adalat by any Court, except after giving a reasonable opportunity of being heard to the parties in a dispute. In the instant case, the present petitioner was not a party in the pending Civil Suit No.6/2009, therefore she was not given any opportunity of being heard in the matter.

19. It is also seen that though Section 22 of the Act, 1987 provides that the Lok Adalat is given the same power, as vested in a Civil Court, under the Court of Civil Procedure, wherein it is given the power of (a) summoning and enforcing the attendance of any witness and examining him on oath. In the instant case, it is seen that the present petitioner is not a witness but was made a party in the Lok Adalat proceedings. Further, though it is held at Sub-section 2 of Section 22 that the Lok Adalat has the power to specify its own procedure for the determination of any dispute coming before it. However, this cannot include a procedure which is contradictory to with what is laid out under Section 19 & 20 of the Act. In the instant case summons were issued to the petitioner through the OC Police Station Bawngkawn and therefore, it appeared that the present petitioner was under some decree of compulsion to appear before the Lok Adalat.

20. For the above reasons, this Court finds that the impugned Lok Adalat Award dated 26.10.2019 is liable to be set aside and the Civil Suit No. 6/2009 be referred back to the Senior Civil Judge, wherein the case is at the stage of hearing of arguments. The learned Senior Civil Judge may make an attempt to dispose of the Civil Suit No. 6/2009 expeditiously.

Accordingly C.R.P No 1 of 2022 stands allowed and disposed of.

JUDGE

Comparing Assistant