

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 9TH DAY OF APRIL, 2021

BEFORE

THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE

WRIT PETITION No.105119/2017 (GM-CPC)

BETWEEN:

RAMCHANDRA S/O BABU KUNNURE
AGE:69 YEARS, OCC:AGRICULTURE,
R/O:ANKALI, TAL:CHIKODI,
DIST:BELAGAVI-590001.

... PETITIONER

(BY SRI. SHIVARAJ S BALLOLI, ADVOCATE)

AND:

LAXMAN S/O BABU KUNNURE,
AGE:62 YEARS, OCC:AGRICULTURE,
R/O:ANKALI TAL:CHIKODI
DIST:BELAGAVI-590001.

... RESPONDENT

(BY SRI. SANGRAM S KULKARNI, ADVOCATE)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 13.12.2013 PASSED IN O.S NO.138/2013 BY THE HON'BLE LOK ADALATH VIDE ANNEXURE-D AND FINAL DECREE PASSED IN O.S NO.138/2013 ON THE FILE OF SENIOR CIVIL JUDGE, CHIKODI AS PER ANNEXURE-E.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN B-GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is the original defendant. A joint compromise petition under Rule 3 of Order XXIII read with Section 89 of the Code of Civil Procedure, 1908 (for short, 'the said Code') was filed before the Lok Adalat. A copy of the joint compromise petition is Annexure-C. On 13th December, 2013, before the Lok Adalat, the Compromise petition was accepted and a final decree was ordered to be drawn.

2. The challenge is to the compromise decree. There are three grounds of challenge urged to set aside the compromise.

- (a) the impugned order passed by the Lok Adalat recording the compromise in terms of compromise at Annexure-C and the final decree drawn in O.S.No.138 of 2013 suffer from serious material irregularity;
- (b) the respondent/plaintiff has deliberately not shown the existence of a canal in the suit

land and hence, the division shown in the compromise petition is unfair; and

- (c) the respondent/plaintiff has not included the property bearing survey No.432 which is also joint family ancestral property and this fact was suppressed while filing the suit;

3. The learned counsel for the petitioner submitted that even after compromise was made, the respondent kept on promising the petitioner that by excluding the canal, the lands would be measured and boundaries would be fixed. However, that promise was not abided by. He submitted that the petitioner is a poor agriculturist and without understanding the implications of the compromise, he has signed the compromise petition.

4. I have considered the submissions. The compromise was recorded on the basis of a joint compromise petition, admittedly signed by the petitioner on 13th December, 2013. The present petition has been filed on 12th June, 2017. Order Sheet shows that on 13th December, 2013, both the petitioner and the respondent appeared before the learned Senior Civil Judge at

Chikkodi and filed a memo along with the joint compromise memo stating that both the parties have settled the matter and therefore, the case may be referred to Lok Adalat. Therefore, the learned Senior Civil Judge, Chikkodi referred the case to Lok Adalat. On the same day, the case was placed before the Lok Adalat and the following proceedings were recorded:

“The plaintiff and defendant and their respective counsels are present. They have filed compromise petition u/o 23 Rule 3 read with section 89 of CPC along handsketch map. The contents and their signatures are voluntarily admitted by both plaintiff and defendant after read over and explained. The contents in the compromise petition are not opposed to any law and the parties are all major and sound mind. This is the suit for partition and separate possession in between the parties in the suit in respect of suit properties. Hence, in the above circumstances, there is no impediment to accept the compromise petition as it is.”

5. Hence, it is clearly recorded before the learned trial Judge and before the Lok Adalat the petitioner appeared along with his learned counsel and voluntarily admitted the signatures on the

joint compromise petition filed along with the hand sketch map. What is recorded in the proceedings dated 13th December, 2013 sought to be challenged belatedly in this petition filed on 12th June, 2017. Therefore, there is absolutely no merit in the grounds raised in this petition.

6. Though I am not inclined to entertain the petition, the record of the petition shows a very disturbing fact. The petitioner and the respondent had signed the joint compromise petition. They appeared before the regular Court on 13th December, 2013, when the joint compromise petition was ready. If in a civil suit, the parties file a compromise petition before the Court, it is the duty of the Court to record the compromise. The trial Court, in such a case, cannot refer the case to Lok Adalat only for showing artificial disposal before the Lok Adalat. The case, which is compromised before the regular Court by filing a compromise petition, has to be disposed of by the regular Court.

7. In the facts of the case, when the parties went before the Senior Civil Judge, Chikkodi with the joint compromise petition, it was wholly unnecessary for the trial Court to have referred the

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case to Lok Adalat. Only the cases which are not settled before the regular Court, should be sent to ADR mechanism. Hence, I pass the following:

ORDER

- (i) No case for interference is made out. The petition is rejected;
- (ii) I direct the Registry to circulate a soft copy of this judgment and order to all the Principal District Judges, who, in turn, will circulate the soft copy to the Judicial Officers in their respective Districts.

**Sd/-
CHIEF JUSTICE**

Lnn/Vr