

**Reserved on : 30.10.2025**  
**Pronounced on : 15.12.2025**



IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 15<sup>TH</sup> DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.101962 OF 2025 (GM-RES)

**BETWEEN:**

- 1 . GURAMMA  
D/O LATE KEMMANNI MARAIAH  
AGED ABOUT 55 YEARS  
OCC: AGRICULTURE
- 2 . SRI RAMAPPA  
S/O LATE KEMMANNI MARAIAH  
AGED ABOUT 51 YEARS  
OCC: AGRICULTURE
- 3 . SRI MARENNA  
S/O LATE KEMMANNI MARAIAH  
AGED ABOUT 51 YEARS  
OCC: AGRICULTURE
- 4 . SMT. GOURAMMA NAYAKARA  
W/O NAVEEN  
D/O LATE KEMMANNI MARAIAH  
AGED ABOUT 40 YEARS  
OCC: AGRICULTURE
- 5 . SRI THIPPESWAMY  
S/O LATE KEMMANNI MARAIAH

AGED ABOUT 37 YEARS  
OCC: AGRICULTURE

ALL ARE RESIDENTS OF  
THIMMANATHKERE  
WARD NO 14  
KAMALAPUR – 583 221  
HOSPETE TALUK  
VIJAYANAGAR DISTRICT.

... PETITIONERS

(BY SMT. VIDYAVATI M.KOTTURSHETTAR, ADVOCATE)

**AND:**

- 1 . SMT. NAGAMMA NAGALAPURA  
W/O BASAIAH  
D/O KARAKANTAPPA  
AGED ABOUT 55 YEARS  
OCC: AGRICULTURE  
R/O WARD NO.19  
CHAWADIKERI  
KAMALAPU – 583 221  
HOSPETE TALUK  
VIJAYANAGAR DISTRICT.
- 2 . SRI DODDA HANUMANTHAPPA  
S/O LATE KARAKANTAPPA  
AGED ABOUT 71 YEARS  
OCC: AGRICULTURE
- 3 . SRI SIDDAPPA  
S/O LATE KARAKANTAPPA  
AGED ABOUT 58 YEARS  
OCC: WORKING IN ARCHEOLOGICAL DEPARTMENT
- 4 . SRI SANNA HANUMANTHAPPA  
S/O LATE KARAKANTAPPA

AGED ABOUT 50 YEARS  
OCC: WORKING IN HAMPI UNIVERSITY

- 5 . SRI DODDA BHARAMAIAH  
S/O LATE KARAKANTAPPA  
AGED ABOUT 48 YEARS  
OCC: SECURITY GUARD.
- 6 . SRI SANNA BHARAMAIAH  
S/O LATE KARAKANTAPPA  
AGED ABOUT 47 YEARS  
OCC: AGRICULTURE/SECURITY GUARD.

RESPONDENT NO.2 TO 6 ARE  
R/O THIMMANATHKERE, KAMALAPUR  
HOSPETE TALUK  
VIJAYANAGAR DISTRICT - 583 221.

... RESPONDENTS

(BY SMT. RANJITA G.ALAGAWADI, ADVOCATE FOR R1, R2 AND  
R4 TO R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR SUCH OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION, QUASHING THE DECREE DATED 08/07/2023 PASSED BY THE II ADDL. CIVIL JUDGE AND JMFC, HOSPETE DURING LOK -ADALATH) IN O.S. NO. 165/2023 VIDE ANNEXURE-A.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 30.10.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**CAV ORDER**

The petitioners are before this Court calling in question a decree dated 08.07.2023, passed by the II Additional Civil Judge and JMFC, Hospete, in O.S.No.165 of 2023, drawn on the compromise petition entered into between the respondents, before the Lok Adalat and have also sought certain consequential reliefs.

2. Heard Sri Smt. Vidyavati M. Kotturshettar, learned counsel for the petitioners and Smt. Ranjita G. Alagawadi, learned counsel for respondent Nos.1, 2, 4 to 6.

3. Facts adumbrated, are as follows:

The petitioners and the respondents are said to be the members of the same family belonging to different branches of the children of one Khemmani Hanumanthappa who is the original owner of the suit schedule properties. A suit in O.S.No.165 of 2023 is instituted by the respondents seeking a decree of partition and separate possession of the suit properties. The said suit comes to be decreed on account of a compromise entered into between the

respondents in terms of an order dated 08.07.2023. Aggrieved by the said decree the petitioners file a regular appeal in R.A.No.41 of 2024 challenging the decree of compromise passed by the Lok Adalat in O.S.No.165 of 2023. The petitioners then realize that a regular appeal was not maintainable before the concerned Court and therefore, they withdraw the same. After the withdrawal of the said regular appeal, the present petition is preferred on 14.03.2025 challenging the compromise decree.

4. Learned counsel appearing for the petitioners would vehemently contend that though the petitioners were necessary parties to the suit in O.S.No.165 of 2023, they were not impleaded as the parties in the said proceedings. The genealogical tree produced before the concerned Court depicting it to be the family was incomplete and erroneous. The plaintiff and the defendants have in collusion, entered into a compromise with an ulterior motive, without any share to the petitioners of their legitimate rights in the suit schedule properties. Learned counsel submits that the suit schedule properties were shared by all the branches of Kemmanni @ Thimmanathkeri Hanumanthappa, in terms of the

partition deed dated 26.03.1968. In terms of the compromise decree, the branch of Poojaraiah is getting more share than in terms of the partition deed of the year 1968. On all these grounds, learned counsel would submit that the rights of these petitioners cannot be taken away by the compromise entered into between the plaintiff and the defendants without making the petitioners as parties. She would submit that the compromise decree is obtained by fraud and only remedy to challenge the decree drawn before the Lok Adalat is the present petition. Learned counsel would seek to place reliance upon plethora of judgments all of which would bear consideration in the course of the order, *qua* their relevance.

5. *Per contra*, learned counsel appearing for the respondents would vehemently refute the submissions contending that the petitioners admittedly were not parties to the proceedings. If the petitioners are not parties to the proceedings, the petitioners cannot file the subject petition and the writ petition is not maintainable by third parties, who were not parties to the compromise. Learned counsel would submit the aforesaid ground would suffice for this Court not to entertain the petition. Learned

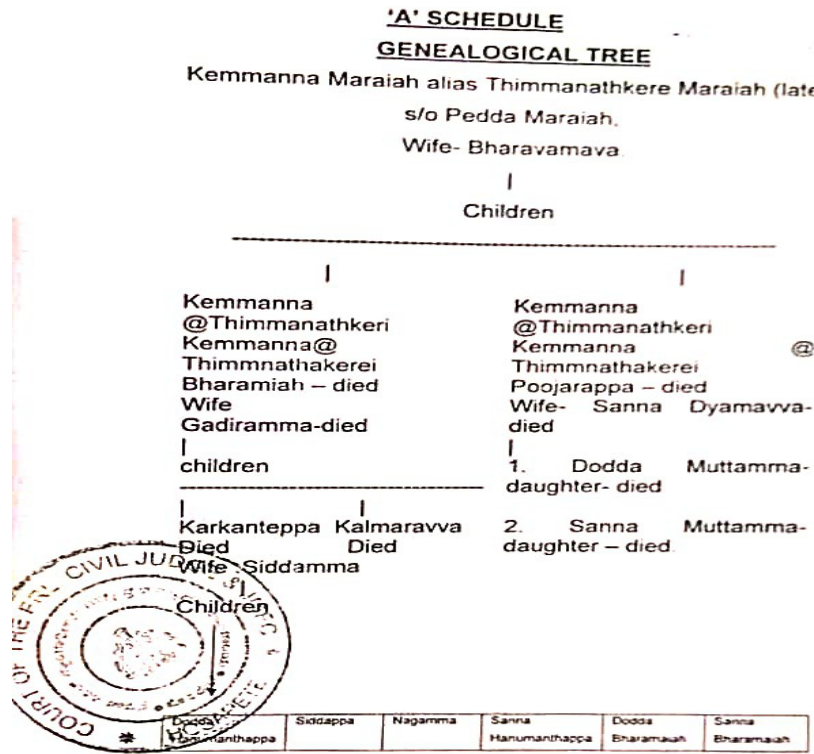
counsel would seek to place reliance upon several judgments to buttress her submission, that a third party cannot maintain a writ petition against a compromise decree.


6. I have given my anxious consideration to the submissions made by the learned counsel for the parties and have perused the material on record.

7. In furtherance whereof, the following issues would emerge for consideration:

- (1) Whether the drawing up of a decree on the award of the Lok Adalat, can be challenged in a writ petition ?**
- (2) Whether a writ petition filed by a third party, challenging the award of the Lok Adalat is maintainable and entertainable ?**
- (3) Whether the decree passed on the award of the Lok Adalat requires to be recalled in the facts and circumstances of the case ?**

8. Before going into above-mentioned issues certain important facts are required to be noticed. It is not in dispute that the suit is one for partition and separate possession. The suit in O.S.No.165 of 2023 is filed seeking partition and separate possession and in support of the said suit, a genealogical tree is placed, which depicts as follows:



T  M db Nagamma NagalaPub

"Schedule "B"

Landed properties situated within the Registration District of Vijayanagara, within the Sub Registration district of Hosapete, situated at Kamalapura, Hosapete taluka, Vijayanagara district, bearing:

Sl.No.	Survey No.	Extent A.C.	Taram Rs.P.
1	1123/D	7-01 acres	3-16
2	1123/B	8-80 acres	

Common Boundaries for both lands:

East.. Land of Jangala Jogaiah,

West.. Land of Vetule Poojari,

North.. Land of Obaiah,

South.. Land of Kokka Maraiah."

After filing of the suit, which comes about on 19.04.2023, a compromise petition under Order XXIII Rule 3 of the CPC is filed before the concerned Court on 08.07.2023. The compromise petition is as follows:

**"COMPROMISE PETITION FILED UNDER ORDER XXIII, RULE 3 OF THE CODE OF CIVIL PROCEDURE, FILED ON BEHALF OF THE PLAINTIFF AND DEFENDANTS"**

At the instance of the Elders and well wishers of both the parties and also agreement of both parties, the parties have settled the matter as under-

1. Plaintiff have filed the above suit for partition and allotment of 1/6<sup>th</sup> legitimate share of the plaintiff in the suit 'B' Schedule properties with metes and bounds as absolute owner, (b) award the costs of the Suit - and to pass such other Order or Orders as the Honourable Court deems fit and proper in the circumstances of the case.

2. The Plaintiffs and Defendants herein have agreed and undertake that they have equal share in the suit Schedule "B" properties and also described hereunder in the schedule.

3. Accordingly the Plaintiff is entitled for 1/6<sup>th</sup> share in the suit "B" schedule properties which comes to 2.50 Acres situated at Kamalapura. So too the Defendants No.1 to 5 together are entitled for 1/6<sup>th</sup> share in the suit "B" schedule properties which approximately comes to 2.50 Acres.

4. The Defendant No.1 to 5 are ready to pay the court fee of Rs.200/- each and allot the 1/6<sup>th</sup> share of Plaintiff B Schedule property i.e. Defendant No.1 Dodda Hanumanthappa S/o Kakanteppa is entitled to 2.50 Acres, the Defendant No.2 Siddappa S/o Kakanteppa is entitled to 3.31 Acres, the Defendant No.3 Sanna Hanumanthappa S/o Kakanteppa is entitled to 2.50 Acres, the Defendant No.4 Dodda Bharmaiah is entitled to 2.50 Acres and the Defendant No.5 Sanna Bharmaiah S/o Kankanteppa is entitled to 2.50 Acres.

5. Further the Plaintiff and the Defendants are undertake that they are entitled to enjoy the respective portion belongs to their respective shares with right, title and interest and undertake not to interfere with the rights of other party.

6. Both the parties are satisfied with the above terms and conditions and agree that Compromise decree may be passed accordingly.

7. Hence, it is prayed that the Hon'ble Court may be pleased to pass a compromise decree accordingly and pass separate decree on separate Bond papers given by the Plaintiff and Defendants in the above case, in the interest of justice

### **Schedule**

Landed properties situated within the Registration District of Vijayanagara, within the Sub Registration District of Hosapete, situated at Kamalapura, Hosapete Taluk, Vijayanagara District, bearing:

Sl.No.	Survey No.	Extent A.C.	Taram Rs.Ps.
1	1123/D	7-01 acres	3-16
2	1123/B	8-80 acres	3-96

Common boundaries for both the lands

East - Land of Jangala Jogaiah,  
West - Land of Vetule Poojari,  
North - Land of Obaiah,  
South - Land of Kokka Maraiah

Boundaries of land fallen to the 1/6<sup>th</sup> share of Plaintiff i.e. 2.50 Acres

East - Jangal Jogaiah land,  
West - Land of Siddappa,  
North - Land of Obaiah  
South - Land of Kukkala Maraiah,

Boundaries of the land fallen to the share of Defendant No.2 i.e.3.31 Acres

East - Land of Nagamma,  
West - Land of Sanna Hanumanthappa,  
North - Land of Obaiah,  
South - Land of Kukkala Maraiah,

Boundaries of the land fallen to the share of Defendant No.3 i.e.  
2.50 Acres

East - Land of Siddappa  
West - Land of Dodda Bharmaiah  
North - Land of Obaiah  
South - Land of Kukkala Maraiah,

Boundaries of the land fallen to the share of Defendant No.4 i.e.  
2.50 Acres

East - Land of Sanna Hanumanthappa  
West - Land of Sanna Bharmaiah  
North - Land of Obaiah,  
South - Land of Kukkala Maraiah,

Boundaries of the land fallen to the share of Defendant No.5 i.e.  
2.50 Acres

East - Land of Dodda Bharmaiah,  
West - Land of Dodda Hanumanthappa  
North - Land of Obaiah,  
South - Land of Kukkala Maraiah,

Boundaries of the land fallen to the share of Defendant No.1 i.e.  
2.50 Acres

East - Land of Dodda Bharmaiah,  
West - Land of Vetule Poojari  
North - Land of Obaiah,  
South - Land of Kukkala Maraiah,

Advocate for Plaintiff.

Sd/-  
Advocate for Defendants

L  
 Plaintiff  
 T M A  
 Nagamma Nagalapur  
 D1) T M A  
 D2) T M A  
 D3) T M A  
 D4) T M A  
 D5) T M A  
 Defendant No.1 to 5

Hosapete  
 Date:8.07.2023."

On the same day, the matter is referred to the Lok Adalat. The Lok Adalat by the impugned order accepts the compromise and directs drawing up of a decree. The award of the Lok Adalat is as follows:

**"BEFORE LOK-ADALATH**

**TALUK LEGAL SERVICE COMMITTEE, AT: HOSAPETE  
 AND  
 IN THE COURT OF THE  
 II ADDITIONAL CIVIL JUDGE & JMFC, HOSAPETE.  
 Present: Sri. G. SANJEEV KUMAR, M.BA.LL.B.,  
 II Addl. Civil Judge & JMFC, Hosapete.**

**DATED THIS THE 08th DAY OF JULY 2023  
 O.8. No. 165/2023**

**PLAINTIFF:** Nagamma Nagalapur W/o. Basaiah, D/o. Late Karkanteppa, aged about 53 years, Occ. Agriculturist, R/o. 19th Ward, Chowdikeri, Kamalapur, Hosapete Taluk, Vijayanagar District.

--V/s--

- DEFENDANTS:**
1. Dodda Hanumanthappa S/o.Late Karkanteppa, aged about 69 years,
  2. Siddappa S/o. Late Karkanteppa, aged about 56 years, Occ. Employee in Archaeological Department
  3. Sanna Hanumanthappa S/o. Late Karkanteppa, aged about 47 years, Occ. Working in Hampi University
  4. Dodda Bharamaiah S/o. Late Karkanteppa, aged about 44 years, Occ. Agriculturist and Security Guard in Hotel Orange Count, Kamalapura
  5. Sanna Bharamaiah S/o. Late Karkanteppa, aged about 44 years, Occ. Agriculturist and Security Guard in Hotel Orange Count, Kamalapura.

All are Occ. Agriculturist, R/o. Thimmanathakere, Kamalapura, Hosapete Taluk, Vijayanagar District.

**SUIT CLAIM:** This is a suit for PARTITION and prayed that Hono'ble court may be pleased to pass a decree in favour of the plaintiff and as against the defendants.

a) For partition and allotment of 1/6<sup>th</sup> legitimate share of the plaintiff in the suit "B" Schedule properties with metes and bounds as absolute owner

b) award the costs of the Suit

and

c) to pass such other order or orders as the honorable court deems fit and proper in the circumstances of the case.

Nature of suit-	PARTITION SUIT
Cause of action arose on-	1967 and still continuing within the jurisdiction of this Hon'ble Court.
Suit was filed on-	19-04-2023
Suit valued at-	Rs.2,50,000/-
Court fee paid-	<b>Rs. 200/-</b>

**: D E C R E E :**

This suit coming on this day before me for final disposal in the presence of Smt. V.R.Sharanamma, Advocate for the Plaintiff and Sri. S. Lokesh Babu Advocate for the Defendant No.1 to 5. The matter placed before Lok-Adalath. Plaintiff and defendants and their counsels are present before Lok-Adalth. Conciliation effected. After conciliation the counsels have filed compromise petition U/o. XXIII, Rule 3 of CPC. reporting settlement and same is allowed consequently the suit decreed in terms of compromise as follows.

This court doth ordered and decreed that, the plaintiff and defendant herein have agreed and undertake that they have equal share in the suit schedule "B" properties and also described here under in the schedule.

This court doth ordered and decreed that, accordingly the Plaintiff is entitled for 1/6<sup>th</sup> share in the suit "B" schedule properties which comes to 2.50 Acres situated at Kamalapura. So too the Defendants No.1 to 5 together are entitled for 1/6<sup>th</sup> share in the suit "B" schedule properties which approximately comes to 2.50 acres.

**This court doth ordered and decreed that, the defendant No.1 to 5 are ready to pay the court fee of Rs.200/- each and allot the 1/6<sup>th</sup> share of Plaintiff B Schedule property i.e. Defendant No.1 Dodda Hanumanthappa S/o. Kakanteppa is entitled to 2.50 acres, the Defendant No.2 Siddappa S/o. Kakanteppa is entitled to 3.31 Acres, the Defendant No.3 Sanna Hanumanthappa S/o. Kakanteppa is entitled to 2.50 Acres, the Defendant No.4 Dodda Bharmaiah is entitled to**

**2.50 Acres and the Defendant No.5 Sanna Bharmaiah Kankanteppa is entitled to 2.50 Acres.**

This court doth ordered and decreed that, further Plaintiff and defendants are undertake that they are entitled to enjoy the respective portion belongs to their respective shares with right, title and interest and undertake not to interfere with the rights of other party.

**This court doth ordered and decreed that, both the parties are satisfied with the above terms and conditions and agree that Compromise decree.**

**This court doth ordered and decreed that, boundaries of land fallen to the 1/6th share of Plaintiff i.e., 2.50 Acres**

**East : Jangal Jogaiah land  
West : Land of Siddappa  
North : Land of Obaiah  
South : Land of Kukkala Maraiah**

**Boundaries of the land fallen to the share of Defendant No.2 i.e., 3.31 Acres**

**East : Land of Nagamma  
West : Land of Sanna Hanumanthappa  
North: Land of Obaiah  
South : Land of Kukkala Maraiah**

**Boundaries of the land fallen to the share of Defendant No.3 i.e., 2.50 Acres**

**East : Land of Siddappa  
West : Land of Dodda Bharmaiah  
North: Land of Obaiah  
South : Land of Kukkala Maraiah**

**Boundaries of the land fallen to the share of Defendant No.4 i.e., 2.50 Acres**

**East : Land of Sanna Hanumanthappa  
West : Land of Sanna Bharmaiah**

**North: Land of Obaiah**  
**South : Land of Kukkala Maraiah**

**Boundaries of the land fallen to the share of Defendant No.5 i.e., 2.50 Acres**

**East : Land of Dodda Bharmaiah**  
**West : Land of Dodda Hanumanthappa**  
**North: Land of Obaiah**  
**South : Land of Kukkala Maraiah**

**Boundaries of the land fallen to the share of Defendant No.1 i.e., 2.50 Acres**

**East : Land of Dodda Bharmaiah**  
**West : Land of Vetule Poojari**  
**North: Land of Obaiah**  
**South : Land of Kukkala Maraiah**

**It is further ordered and decreed that, this compromise petition may be treated as final decree.**

Given under my hand and the seal of this Court on the **08<sup>th</sup> Day of July 2023.**

Sd/-  
14/9

**II Addl. Civil Judge & JMFC,  
Hosapete.**

**B SCHEDULE**

Landed properties situated within the Registration District of Vijayanagara, within the Sub-Registration District of Hosapete, situated at Kamalapura, Hosapete taluka, Vijayanagar district, bearing

Sl.No.	Survey No.	Extent A.C.	Taram Rs.P.
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2.	1123/B	8-80 acres	

Common boundaries for both lands

East : Land of Jangala Jogaiah  
 West : Land of Vetule Poojari  
 North : Land of Obaiah  
 South : Land of Kukkala Maraiah

Sd/-  
14/9

**II Addl. Civil Judge & JMFC,  
Hosapete.**

**MEMORANDUM OF COST**

<b>Particulars</b>	<b>Plaintiff</b>	<b>Defendant No.1 to 5</b>
Court fee on Plaint	200.00	1.00
Court fee on Power	1.00	
Court fee on Process	24.00	FCMNF
IA's Fee	00.00	
<b>Advocates fee</b>	FCMNF	
<b>Total:</b>	<b>225.00</b>	<b>1.00</b>

Sd/-  
14/9

**II Addl. Civil Judge & JMFC,  
Hosapete."**

(Emphasis added)

One factor becomes crystal clear is, that the suit is instituted on the basis of a genealogical tree seeking partition and separate possession. The suit ends in a compromise not before the concerned Court but before the Lok Adalat. The admitted fact that the suit is decreed on account of compromise entered into between

the parties before the Lok Adalat is a matter of record. In that light, whether the writ petition against an award or decree drawn on the strength of compromise before the Lok Adalat is maintainable or entertainable is the question.

**ISSUE NO.1:**

**Whether the drawing up of a decree on the award of the Lok Adalat, can be challenged in a writ petition?**

9. The Apex Court has time and again held that an award of the Lok Adalat can only be challenged by filing a writ petition under Article 226 or 227 of the Constitution of India on limited grounds of fraud.

9.1 In the case of **STATE OF PUNJAB v. JALOUR SINGH**<sup>1</sup>, the Apex Court has held as follows:

“.... ....

“7. A reference to relevant provisions will be of some assistance, before examination of the issues involved. Section 19 of the Legal Services Authorities Act, 1987 (“the LSA Act”, for short) provides for organisation of the Lok Adalats. Section

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<sup>1</sup> (2008) 2 SCC 660

19(5)(i) of the LSA Act provides that 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 any case pending before any court for which the Lok Adalat is organised. Section 20 relates to cognizance of cases by the Lok Adalats. Sub-section (1) refers to the Lok Adalats taking cognizance of cases referred to by courts and sub-section (2) refers to the Lok Adalats taking cognizance of matters at pre-litigation stage. The relevant portions of other sub-sections of Section 20, relating to cases referred by courts, are extracted below:

"20. (3) Where any case is referred to a Lok Adalat under sub-section (1) ... the Lok Adalat shall proceed to dispose of the case ... *and arrive at a compromise or settlement between the parties.*

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground *that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received* under sub-section (1) for disposal in accordance with law.

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(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1)."

(emphasis supplied)

**8. It is evident from the said provisions that the Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat**

**determines a reference on the basis of a compromise or settlement between the parties at its instance, and puts its seal of confirmation by making an award in terms of the compromise or settlement.** When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the court from which the reference was received, for disposal in accordance with law. **No Lok Adalat has the power to "hear" parties to adjudicate cases as a court does.** It discusses the subject-matter with the parties and persuades them to arrive at a just settlement. In their conciliatory role, the Lok Adalats are guided by the principles of justice, equity and fair play. 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.

.... ....

**12. 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. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.”**

(Emphasis supplied)

9.2 The Apex Court following **JALOUR SINGH** *supra*, in the case of **BHARGAVI CONSTRUCTIONS V. KOTHAKAPU MUTHYAM REDDY**<sup>2</sup>, has held as follows:

**“10.** The defendants, on being served with the notice of the suit, filed an application under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908 (hereinafter referred to as “the Code”) and prayed for rejection of the plaint. According to the defendants, since the suit seeks to challenge the award of Lok Adalat, it is not maintainable being barred by virtue of rigour contained in Order 7 Rule 11(d) of the Code. **It was contended that the remedy of the plaintiff was in filing writ petition under Article 226 or/and Article 227 of the Constitution of India to challenge the award dated 22-8-2007 as held by this Court in *State of Punjab v. Jalour Singh* [*State of Punjab v. Jalour Singh*, (2008) 2 SCC 660 : (2008) 1 SCC (Civ) 669 : (2008) 1 SCC (Cri) 524 : (2008) 1 SCC (L&S) 535] .**

**11.** The trial court, by order dated 24-7-2013 allowed the application filed by the defendants and rejected the plaint by invoking powers under clause (d) of Rule 11. **It was held that the filing of the civil suit to challenge**

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<sup>2</sup> (2018) 13 SCC 480

the award of Lok Adalat is impliedly barred and the remedy of the plaintiffs is to challenge the award by filing writ petition under Articles 226 or/and 227 of the Constitution in the High Court as held by this Court in *State of Punjab [State of Punjab v. Jalour Singh, (2008) 2 SCC 660 : (2008) 1 SCC (Civ) 669 : (2008) 1 SCC (Cri) 524 : (2008) 1 SCC (L&S) 535]* .

.... ..

22. The question arose before this Court (three-Judge Bench) in *State of Punjab [State of Punjab v. Jalour Singh, (2008) 2 SCC 660 : (2008) 1 SCC (Civ) 669 : (2008) 1 SCC (Cri) 524 : (2008) 1 SCC (L&S) 535]* as to what is the remedy available to the person aggrieved of the award passed by the Lok Adalat under Section 20 of the Act. In that case, the award was passed by the Lok Adalat which had resulted in disposal of the appeal pending before the High Court relating to a claim case arising out of the Motor Vehicles Act. One party to the appeal felt aggrieved of the award and, therefore, questioned its legality and correctness by filing a writ petition under Articles 226/227 of the Constitution of India. The High Court dismissed the writ petition holding it to be not maintainable. The aggrieved party, therefore, filed an appeal by way of special leave before this Court. This Court, after examining the scheme of the Act allowed the appeal and set aside the order of the High Court. This Court held that the High Court was not right in dismissing the writ petition as not maintainable. It was held that the only remedy available with the aggrieved person was to challenge the award of the Lok Adalat by filing a writ petition under Article 226 or/and Article 227 of the Constitution of India in the High Court and that too on very limited grounds. The case was accordingly remanded to the High Court for deciding the writ petition filed by the aggrieved person on its merits in accordance with law.

**23.** This is what their Lordships held in para 12 : (*Jalour Singh case [State of Punjab v. Jalour Singh, (2008) 2 SCC 660 : (2008) 1 SCC (Civ) 669 : (2008) 1 SCC (Cri) 524 : (2008) 1 SCC (L&S) 535] , SCC p. 666, para 12)*)

“12. 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. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.**”

(Emphasis supplied)

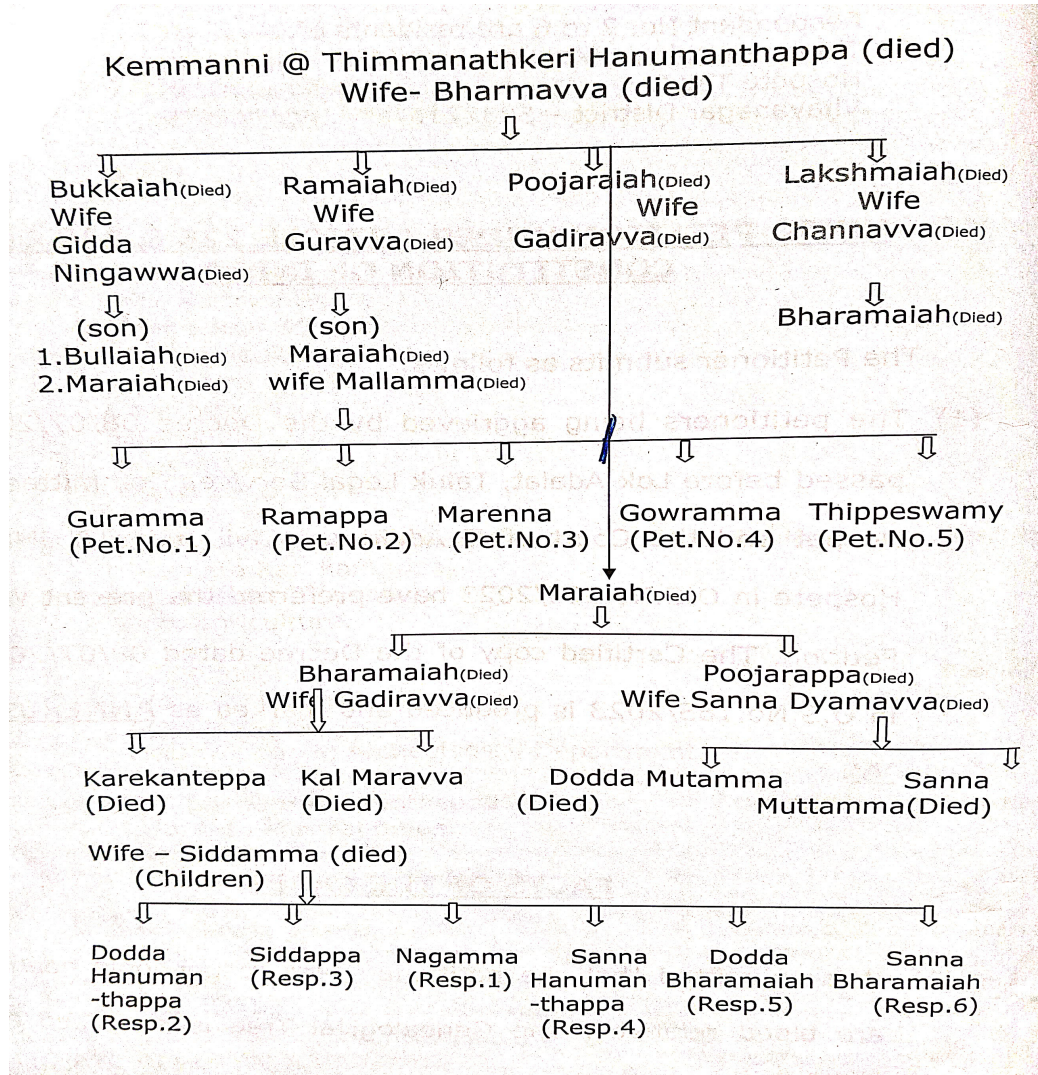
In the light of the judgments of the Apex Court in **JALOUR SINGH** and **BHARGAVI CONSTRUCTIONS** (*supra*), and the facts obtaining in the case at hand, the decree so drawn on the basis of

the award of the Lok Adalat can only be challenged by filing a writ petition under Article 226 or 227 of the Constitution of India on the grounds set out by the Apex Court in the afore-quoted two judgments. The issue is answered accordingly.

**ISSUE NO.2:**

**Whether a writ petition filed by a third party challenging the award of the Lok Adalat is maintainable and entertainable ?**

10. To consider the said issue, it is necessary to consider the facts that has lead the petitioners before this Court, though at the periphery. It is not in dispute that the suit is for partition and separate possession, in which the distinction of a plaintiff and defendant is illusory, as all of them are entitled to a share in the property. The contention of the petitioners is that, the genealogical tree produced before the concerned Court is said to be in error, as it has left out the petitioners from the family. The genealogical tree upon which the present petition is preferred is as follows:



On the strength of the said genealogical tree, the petitioners have built their submissions. The submission is, tracing the history to 17.02.1968, when the partition deed was entered into by the family. The partition recognized certain rights of the petitioners and certain shares in the suit properties. The submission now is

that, the share that is allotted to the petitioners in the partition deed in the year 1968 is further partitioned without providing the respective shares to these petitioners. Further, the petitioners' father, way back in the year 1970 had acquired by purchasing the properties from Bharamaiah, who is the only son of Lakshmaiah, who inherited his share of the properties in the partition deed dated 17.02.1968. Therefore, the petitioners ought to have been made as parties - defendants before the concerned Court, especially when the petitioners have a higher share in the suit properties. The respondents instead, without impleading the petitioners in the suit for partition, have fraudulently entered into a compromise decree on the entirety of the suit properties, without having any right to the same. Therefore, the issue now would be, whether a person who is not arrayed as a party to the suit can challenge the decree or award of compromise passed by the Lok Adalat, arising from the said suit.

11. Jurisprudence is replete as to whether a person who is not a party / third party can file a writ petition challenging an award of

the Lok Adalat. I deem it appropriate to quote a few judgments on this issue.

11.1. A Division Bench of the High Court of Andhra Pradesh, in the case of **BATCHU SUBBA LAKSHMI V. SANNIDHI SRINIVASULU**<sup>3</sup>, has held as follows:

".... ....

***Who can file writ petition challenging the Lok Adalat Award***

**8. The parties to the compromise or settlement, which is the basis for award of Lok Adalat, no doubt entitled to challenge the award on any of the grounds referred to herein above grounds. Ordinarily, a third party cannot challenge the award in a writ petition even if such award causes prejudice. The remedy of such party would be to institute a separate suit or proceeding for necessary redressal and seek appropriate decree of declaration by filing a suit within the period of limitation prescribed under law. Under Section 34 of the Specific Relief Act, 1963, any person entitled to legal character or any right as to any property, may file a suit for declaration. Under this provision, any person can even institute a suit for declaration that the decree passed by Civil Court in an earlier suit is not binding on him. When a civil Court can even declare that an earlier decree of the Court is not binding on the party before it, we do not see any objection for a third party to institute a suit in a civil Court seeking a declaration that the award of Lok Adalat is not binding on him/her subject to the law of limitation. We however hasten to add that there may be extraordinary cases where a third party is meted with injustice at the behest of two or more conniving and**

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<sup>3</sup> 2009 SCC OnLine AP 795

**colluding parties, who may have obtained an award of Lok Adalat by fraud or misrepresentation only to defeat the rights of such third party. In such cases within a reasonable period such third party may maintain a writ petition. But in such cases, there should be *prima facie* evidence of fraud or misrepresentation or collusion in obtaining the award of Lok Adalat. Even if such allegations are made and the question involves complicated questions of fact requiring voluminous evidence, third party should be left to seek remedy in a civil Court rather than preferring extraordinary remedy under Article 226 of Constitution.**

*What are grounds of challenge*

**9.** Insofar as legal position that the Lok Adalat cannot pass award unless and until there is a compromise and settlement under Section 20(3) and (5) of the Act between the parties, is well settled. In *State of Punjab v. Ganpat Raj*, (2006) 8 SCC 364, respondent moved Punjab and Haryana High Court by filing writ petition seeking writ of Mandamus to the State to pay interest at 18% per annum on the delayed payment of pension arrears and other retiral benefits. The case was sent to Lok Adalat, which passed award without any settlement or compromise between the pensioner and the State. The writ petition filed by the State was dismissed as misconceived. In the Supreme Court, it was submitted that the matter could not have been disposed of by Lok Adalat in view of the specific provisions contained in Section 20 of the Act. While allowing the appeal, the matter was remitted to High Court for de novo consideration. The purport of Section 20(3) and (5) of the Act is explained by Supreme Court in the following words.

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.

**10.** In *State of Punjab v. Jalour Singh*, (2008) 3 SCC 660, the wife and son of *Amarjit Kaur*, who died in a motor accident, filed petition before the Motor Accidents Claims Tribunal (MACT) claiming Rs. 5,00,000/- as compensation. An award was passed by MACT on 1.12.1998 for Rs. 1,44,000/-. The claimants filed appeal before High Court, which was referred to High Court Lok Adalat for settlement. On 3.8.2001, Lok Adalat passed an order awarding Rs. 1,70,200/- observing that if the parties have any objection to the order proposed, they may move the High Court for disposal of appeal on merits. Aggrieved by the same, Punjab Roadways filed application before the High Court to set aside the Lok Adalat award. A learned Single Judge rejected the same placing reliance on earlier judgment of another learned Single Judge wherein it had been held that an order passed by Lok Adalat can be challenged by filing a petition under Article 227 of Constitution of India. Therefore, another petition was moved under Article 227 of Constitution challenging the order of Lok Adalat. The same was rejected by learned Single Judge on the ground that such a petition is not maintainable under Article 227 of Constitution. The Supreme Court while reversing the award and remanding the matter to High Court laid down as under.

**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. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.

**11.** Dealing with the provisions of the Act especially Sections 19 and 20, their Lordships observed as under:

**It is evident from the said provisions that the Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance, and puts its seal of confirmation by making an award in terms of the compromise or settlement. When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the Court from which the reference was received, for disposal in accordance with law. No Lok Adalat has the power to "hear" parties to adjudicate cases as a Court does. It discusses the subject-matter with the parties and persuades them to arrive at a just settlement. In their conciliatory role, the Lok Adalats are guided by the principles of justice, equity and fair play. *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)

**12.** From the above judgments, it may be taken as well settled that the award of Lok Adalat is 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 becomes binding on the parties to the settlement and becomes executable as if it is a decree of Civil Court. No appeal would lie against the award of Lok Adalat and if any party wants to challenge such an award, it can be by way of petition under Article 226 or 227 of Constitution.** If there is no compromise or settlement between the parties before the Lok Adalat, it cannot pass any award nor such award can bind the parties. The challenge to the award of Lok Adalat under Article 226 of Constitution can be entertained on very limited grounds raised only by parties to the settlement/compromise before Lok Adalat and not by anybody else."

(Emphasis supplied)

11.2 The High Court of Bombay, in the case of **KUSUMBAI v. BHAUSAHEB<sup>4</sup>**, has held as follows:

".... ....

**2. The issue raised in this petition is as to whether, the third party can challenge the award of the Lok Adalath before the High Court on the ground that the litigating sides had excluded the third party from the litigation?**

.... ....

**6. I find from *Bhargavi Constructions* (supra) that the Honourable Supreme Court was not dealing with the issue as to whether, a third party could also have the**

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<sup>4</sup> 2019 SCC OnLine Bom 585

same remedy of challenging the Lok Adalat award in the High Court contending that such third party is aggrieved by the Lok Adalat Award. The Honourable Supreme Court, therefore, concluded that an "aggrieved party" can challenge the Lok Adalat award before the High Court.

7. The Division Bench of the Andhra Pradesh High Court, in the matter of *Batchu Subba Lakshmi v. Sannidhi Srinivasulu*, 2010 (1) ALT 483 : 2010 (1) ALD 277, dealt with the issue of a third party challenging the award of the Lok Adalat. The observations made by the Andhra Pradesh High Court as to who can challenge the Lok Adalat award are found in paragraph 8 of the judgment, which read as under:—

*"Who can file writ petition challenging the Lok Adalat Award.*

*8. The parties to the compromise or settlement, which is the basis for award of Lok Adalat, no doubt entitled to challenge the award on any of the grounds referred to herein above grounds. Ordinarily, a third party cannot challenge the award in a writ petition even if such award causes prejudice. The remedy of such party would be to institute a separate suit or proceeding for necessary redressal and seek appropriate decree of declaration by filing a suit within the period of limitation prescribed under law. Under Section 34 of the Specific Relief Act, 1963, any person entitled to legal character or any right as to any property, may file a suit for declaration. Under this provision, any person can even institute a suit for declaration that the decree passed by Civil Court in an earlier suit is not binding on him. When a civil Court can even declare that an earlier decree of the Court is not binding on the party before it, we do not see any objection for a third party to institute a suit in a civil Court seeking a declaration that the award of Lok Adalat is not binding on him/her subject to the law of limitation. We however hasten to add that there may be extraordinary cases where a third party is meted with injustice at the behest of two or more conniving and colluding parties, who may have obtained an award of Lok Adalat by fraud or misrepresentation only to defeat the rights of such third party. In such cases within a reasonable period such third party may maintain a writ*

*petition. But in such cases, there should be prima facie evidence of fraud or misrepresentation or collusion in obtaining the award of Lok Adalat. Even if such allegations are made and the question involves complicated questions of fact requiring voluminous evidence, third party should be left to seek remedy in a civil Court rather than preferring extraordinary remedy under Article 226 of Constitution."*

8. While dealing with such challenge, the Andhra Pradesh High Court also concluded in *Batchu Subba Lakshmi* (supra) that such a challenge can be posed on certain grounds. The grounds for challenge are recorded in paragraph 9 of the said judgment, which read as under:—

*"What are grounds of challenge.*

*9. Insofar as legal position that the Lok Adalat cannot pass award unless and until there is a compromise and settlement under Section 20(3) and (5) of the Act between the parties, is well settled. In State of Punjab v. Ganpat Raj : (2006) 8 SCC 364 : 2006 (7) SCJ 364 : 2007 (1) ALT 283 (DNSC), respondent moved Punjab and Haryana High Court by filing writ petition seeking writ of Mandamus to the State to pay interest at 18% per annum on the delayed payment of pension arrears and other retiral benefits. The case was sent to Lok Adalat, which passed award without any settlement or compromise between the pensioner and the State. The writ petition filed by the State was dismissed as misconceived. In the Supreme Court, it was submitted that the matter could not have been disposed of by Lok Adalat in view of the specific provisions contained in Section 20 of the Act. While allowing the appeal, the matter was remitted to High Court for de novo consideration. The purport of Section 20(3) and (5) of the Act is explained by Supreme Court in the following words.*

*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 Tertnes 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 (2) (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."*

**9.** In the instant case, RCS No. 730/2017 was filed on 30.06.2017 and the Defendants appeared suo moto in the said matter. It was immediately placed in the list of matters, which could be taken up in the Lok Adalat after 08 days, scheduled on 08.07.2017. On the said date, the suit was compromised with reference to the properties mentioned above. **Prima facie, a fraud is played by the Plaintiff and the Defendants on these Petitioners. All of them were parties to the earlier RCS No. 447/2000. The entire family as appearing in the family tree was before the Civil Court. The said first suit was compromised on 02.09.2002 and the shares of the parties were demarcated. The property at Survey No. 104 in Vadjai sector was mentioned in the suit properties in the 2000 suit as well as in the 2017 suit as noted above. The Plaintiff in the 2017 suit, therefore, had no reason to exclude these Petitioners.**

**10.** The learned counsel for the Petitioners submits that this mischief is played because the husband of Petitioner No. 1 (deceased Ramesh), who is the brother of the Plaintiff Bhusaheb in the 2017 suit, had passed away in 2000 and Bhusaheb along with other relatives desired to deprive the widow of Ramesh with that share of the property to which Ramesh would have a right. **This prima facie appears to be the fraud played upon these Petitioners as well as the court when the 2017 suit was settled in the Lok Adalat within 08 days of it's institution and when the Defendants had appeared suo moto without any notice. All had declared that there are no other family members.**

**11.** These set of facts are not found in the judgments delivered by the Honourable Supreme Court in *Bhargavi Construction* (supra) and in *State of Punjab v. Jalour Singh*, (2008) 2 SCC 660 and in the matter decided by the High Court of Punjab and Haryana in the case of *Shalu v. Vineet*, 2014 (174) (2) PLR 602 : 2013 TLP & H 4103.

**12.** It is true that a party aggrieved by the Lok Adalat award can approach the High Court if it discovers any fraud post the Lok Adalat award. It is equally true that the third party, which is not a litigant in a suit which has suffered a compromise decree, can also file a separate suit for seeking a declaration that such decree which affects the rights of the third party, would not be binding upon the said party as the said decree was delivered in the matter in which, such third party was never arrayed. It, therefore, appears that an option to either prefer a separate suit or file a writ petition in the High Court would be available to such third party. At times, the issue of limitation would crop up and the suit to be preferred by such third party might be barred, of course, subject to the date of the knowledge of such decree.

**13.** Both the learned Advocates submit that despite their best efforts, they could not locate any judgment, directly on this law point, delivered by this Court or by the Honourable Supreme Court. It is conceded that the judgment delivered by the High Court of Andhra Pradesh in the matter of *Batchu Subba Lakshmi* (supra) is the only judicial pronouncement available dealing with a third party being aggrieved by the Lok Adalat award on the ground of fraud and his/her exclusion from such proceedings, which culminated into the Lok Adalat award.

**14.** The learned Advocate for the Petitioners, who are the third parties, relies upon the judgments delivered by the Honourable Supreme Court in *Bhargavi Constructions* (supra) and *State of Punjab* (supra) to contend that when any aggrieved party can approach the High Court for challenging the Lok Adalat award, such

**“aggrieved party” would also include a “third party” as like the Petitioners herein.**

**15.** While hearing the learned Advocates for the respective sides, notwithstanding that prima facie the contention of fraud is sustainable, I have perused the record and have found that the property situated in Survey No. 104 which is known as Vadjai area, was the suit property in the 2000 suit for partition and separate possession and the same survey number involving a larger area of land in Vadjai area was the suit property in the 2017 suit, in which these Petitioners were excluded. As such, if at all there is any fraud played by the Plaintiff (Bhausahab) or the Defendants (Kondabai and Lahanabai) in the 2017 suit, it relates to the property Survey No. 104 in Vadjai area and which, therefore, fortifies the contention of the Petitioners that the property admeasuring 3 Acres 35 Gunthas, which was subject matter of the 2000 suit is the suit property in the 2017 suit, which is shown to be admeasuring 7 Acres 19 Gunthas.

**16. In view of the above, I conclude, in the light of the law laid down by the Honourable Supreme Court in *Bhargavi Constructions* (supra) and *State of Punjab* (supra), that the third party would be covered by the meaning “aggrieved person” and as is held by the High Court of Andhra Pradesh in the matter of *Batchu Subba Lakshmi* (supra), such a third party can challenge the Lok Adalat award provided the ground of fraud and misrepresentation is, prima facie, made out.”**

(Emphasis supplied)

The view taken by the High Court of Bombay in the afore-quoted case was subsequently followed by the same High Court of again in the case of **LATA v. SHANKAR** reported in **2021 SCC ONLINE BOM 6358**.

11.3 The High Court of Madras, in the case of **M. ANTONYSAMY v. S. MUMTAJ**<sup>5</sup>, has held as follows:

“.... .... ....

**21.** When the entire facts leading to the registration of the award obtained before the Lok Adalat is established to have been obtained by playing a fraud and the parties colluding among themselves, the award itself would be a nullity and non-est in the eyes of law.

**22.** The learned Senior counsel for the petitioner relied upon the decision of the Hon'ble Apex Court in *S.P. Chengalvaraya Naidu v. Jagannath* reported in (1994) 1 SCC 1 : AIR 1994 SC 853 on these proposition and the relevant observation reads as follows:—

*"1."Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree by the first court or by the highest court has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings.*

*8. The facts of the present case leave no manner of doubt that Jagannath obtained the preliminary decree by playing fraud on the court. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage...."*

**23.** Insofar as what constitutes a fraud or collusion has been discussed by this Court in a decision reported in 1998 (1) CTC 66 [*Ranipet Municipality v. M. Shamsheerkhan*] and this Court made the following observations:

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<sup>5</sup> 2018 SCC OnLine Mad 12537

"9. It is this conduct of the respondent that is attacked by the petitioner as abuse of process of Court. What is 'abuse of the process of the Court'? Of course, for the term 'abuse of the process of the Court' the Code of Civil Procedure has not given any definition. A party to a litigation is said to be guilty of abuse of process of the Court, in any of the following cases:—

- (1) Gaining an unfair advantage by the use of a rule of procedure.
- (2) Contempt of the authority of the Court by a party or stranger.
- (3) Fraud or collusion in Court proceedings as between parties.
- (4) Retention of a benefit wrongly received.
- (5) Resorting to and encouraging multiplicity of proceedings.
- (6) Circumventing of the law by indirect means.
- (7) Presence of witness during examination of previous witness.
- (8) Institution vexatious, obstructive or dilatory actions.
- (9) Introduction of Scandalous or objectionable matter in proceedings.
- (10) Executing a decree manifestly at variance with its purpose and intent.
- (11) Institution of a suit by a puppet plaintiff.
- (12) Institution of a suit in the name of the firm by one partner against the majority opinion of other partners etc. (See The Code of Civil Procedure - A.I.R. Commentary to Section 151, C.P.C.) The above are only some of the instances, where a party may be said to be guilty of committing abuse of the process of Court."

**24. The issue as to whether the revision petitioner, who was not a party to the suit, can seek for setting aside an award obtained by fraud or misrepresentation is also no more *res-integra* in view of the following decisions:**

**1) 1998 (1) CTC 470 [J. Sivasubramanian v. N. Govindarajan],**

**"1. A person who is not a party to the suit, but who is aggrieved by the decree, has come to this Court, under Art. 227 of the Constitution of India, alleging fraud and collusion in obtaining the decree.**

**13. I feel that all these decisions will show that a duty is cast on the litigant to plead, pray and get relief by placing all materials before Court. By suppressing facts and without impleading the necessary parties, a collusive decree is obtained. In the case on hand, the collusion is apparent. A person who has no right in the property concedes the right of the plaintiff to get a decree, and that too within 49 hours of filing of the suit. The result of this is getting unfair advantage over the rights of the petitioners and to deprive them of their properties. Both the respondents were aware that the petitioners are in possession on the basis of documents. They themselves (i, e. parties to the suit) admit the possession of the petitioners. But, without disclosing any of these documents, the power of attorney (agent) filed the suit against the principal and gets a decree, by consent. I have already stated as to what is the legal effect, i.e., the second respondent (defendant) himself is the plaintiff and defendant. It will be unjust to accept the contention of the respondents. Such a collusive decree also cannot be allowed to stand. After coming to know of these facts, if any Court shuts its eyes to realities, it will cease to be a Court of Justice. By invoking the judicial supervisory jurisdiction, I declare that the decree in O.S. No. 7631 of 1997, on the file of XV Assistant Judge, City Civil Court at Madras is a nullity and on the basis of the said decree, possession of the petitioners shall not be disturbed. I further find that since the suit is filed fraudulently, the same is liable to be quashed, and I do so. O.S. No. 7631 of 1997 is struck off from the file of the lower Court. The Civil Revision Petition is allowed with costs. Advocate's fee Rs. 2,500/- (Rupees Two thousand five hundred). CMP. No. 17556 of 1997 for stay is closed."**

**2) 2009 SCC OnLine AP 795 [Batchu Subba Lakshmi v. Sannidhi Srinivasualu]**

**"7. Under Section 21(1) of the Act an award of Lok Adalat shall be deemed to be decree of a Civil Court and under Section 21(2) of the Act every award made by Lok Adalat shall be final and binding on all the parties. No appeal shall lie to any Court against the award, and therefore, ordinarily a writ petition challenging award is also barred. But there may be situations where there being no compromise or settlement as envisaged under Section 20(3) and (5) of the Act, Lok Adalat may have**

*passed an award. In other words, what would be the position if Lok Adalat passes an order even without parties arriving at a compromise or settlement among themselves. In such a situation, it cannot be said that there is an award of Lok Adalat, which can be enforced by a Civil Court as a decree. There may be yet another situation where in the absence of the parties to the lis or in the absence of one of the parties to the lis, award of Lok Adalat may have been obtained by impersonation, misrepresentation or fraud. Even in such cases, there being no valid award, Section 21(1) of the Act is not attracted. Having regard to the language of Article 226(1) of Constitution of India, which empowers the High Court of a State to issue writs, orders or directions against any public authority or against authorities discharging public functions, the High Court can entertain a writ petition against an award of Lok Adalat. The phrase 'for any other purpose' appearing in Article 226(1) of Constitution, in our opinion, is broad enough to take within its purview the situations where a statute contains 'no Certiorari clause'. It is well settled that 'no Certiorari clause' in a statute does not bar the Constitutional Court from entertaining a petition for redressal of grievance and issue an appropriate order ex debito justitiae. Therefore, in either of the situations or any such other situations, a writ petition would lie.*

#### **Who can file writ petition challenging the Lok Adalat Award**

**8. The parties to the compromise or settlement, which is the basis for award of Lok Adalat, no doubt entitled to challenge the award on any of the grounds referred to herein above grounds. Ordinarily, a third party cannot challenge the award in a writ petition even if such award causes prejudice. The remedy of such party would be to institute a separate suit or proceeding for necessary redressal and seek appropriate decree of declaration by filing a suit within the period of limitation prescribed under law. Under Section 34 of the Specific Relief Act, 1963, any person entitled to legal character or any right as to any property, may file a suit for declaration. Under this provision, any person can even institute a suit for declaration that the decree passed by Civil Court in an earlier suit is not binding on him. When a civil Court can even declare that an earlier decree of the Court is not binding on the party before it, we do not**

***see any objection for a third party to institute a suit in a civil Court seeking a declaration that the award of Lok Adalat is not binding on him/her subject to the law of limitation. We however hasten to add that there may be extraordinary cases where a third party is meted with injustice at the behest of two or more conniving and colluding parties, who may have obtained an award of Lok Adalat by fraud or misrepresentation only to defeat the rights of such third party. In such cases within a reasonable period such third party may maintain a writ petition. But in such cases, there should be prima facie evidence of fraud or misrepresentation or collusion in obtaining the award of Lok Adalat. Even if such allegations are made and the question involves complicated questions of fact requiring voluminous evidence, third party should be left to seek remedy in a civil Court rather than preferring extraordinary remedy under Article 226 of Constitution.***

***13. Reverting to the facts of this case, there is no dispute that respondents 1, 2 and 4 are partners in 3<sup>rd</sup> respondent firm. There is also no dispute that respondents 1 and 2 filed O.S. No. 1 of 2004 against third respondent and its Managing Partner, the fourth respondent, for dissolution of firm and rendition of accounts. On 07.2.2004, plaintiffs and defendants therein signed memorandum of compromise and settlement whereunder they agreed to withdraw from the firm and fourth respondent was permitted to continue the business till 31.3.2008, failing which it shall be open to first respondent to execute the decree and recover possession of vacant site used as stockyard for the business of third respondent. The award passed by Lok Adalat on 07.2.2004 was signed by respondents 1 and 2. Fourth respondent signed on his behalf and also on behalf of third respondent firm. Either on the date of award of Lok Adalat or during pendency of suit before District Court, Nandyal, allegation of reconstitution of third respondent firm with petitioners and fourth respondent as new partners was not revealed. There is also no dispute nor it can be denied that partnership deed dated 01.4.2003 was executed by petitioners and fourth respondent on the stamp papers which had been produced (sic. purchased) by third respondent firm on 27.3.2001 long prior to disputes arose among respondents 1 to 4. This creates any amount of doubt on the case put up by petitioners. This doubt becomes***

***strong when we realised that the petitioners 1 to 3 are stepmother, wife and grandfather respectively of fourth respondent and they are all living under the same roof. The allegation made by respondents 1 and 2 in their counter affidavit remains uncontroverted. These lend support to the submissions made on behalf of respondents 1 and 2 and we do not see strong reasons to discredit those submissions."***

**3) 2013 (6) CTC 166 [P. Subramani v. A. Periyasamy]**

***"21. In the present case, the entire proceedings relating to delivery of possession are vitiated by fraud. When an order is obtained by resorting to fraud, all the subsequent proceedings thereto will also render it vitiated. In this context, I am fortified by the decision of this Court reported in (J. Sivasubramanian v. N. Govindarajan) 1998 1 CTC 470 relied on by the learned counsel for the revision petitioner. In that case, this Court took note of the fact that the suit was filed by suppressing material facts and by not impleading the proper and necessary parties. This Court held that fraud and collusion are palpable and that the decree was obtained by power of attorney agent as against his own principal thereby depriving his right over the property, which was purchased by him from the original owner. As the power agent filed the suit by suppressing the material facts, this Court held that "...in such cases, it is the duty of the Court to see that the suit itself is wiped off from the file." It was also held by this Court that in such circumstances the revision petition under Article 227 of the Constitution of India is very much maintainable. In that case, this Court, relying on the decision of the Honourable Supreme Court reported in S.P. Chengalvaraya Naidu (dead) by Lrs. v. Jagannath (dead) by Lrs., (1994) 1 SCC 1 culled out the legal propositions as follows:***

***"12. In S.P. Chengalvaraya Naidu (dead) by LRs. v. Jagannath (dead) by LRs., their Lordships have decided as to what is meant by 'fraud'. In paragraph 6, Their Lordships have held thus:—***

***"... A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage 14 of another. It is a deception in order to***

*gain by another's loss. It is a cheating intended to get an advantage..." Their Lordships have further said thus:— "A litigant who approaches the Court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side, then he would be guilty of playing fraud on the Court as well as on the opposite party." In the earlier portion of that Judgment, their Lordships have held thus:— "... We have no hesitation to say that a person whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation." The effect of such a decree obtained in such cases is also stated in that judgment thus:— "... The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The Courts of law are meant for imparting justice between the parties. One who comes to the Court, must come with clean hands.... A judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree by the first Court or by the highest Court has to be treated as a nullity by every Court, whether superior or inferior. It can be challenged in any court even in collateral proceedings." In Mahboob Sahab v. Syed Ismail, of the judgment, Their Lordships declared thus:— "... The reason is that fraud is and extrinsic collateral act, which vitiates the most solemn proceedings of courts of justice. If a party obtains a decree from the Court by practicing fraud or collusion, he cannot be allowed to say that the matter is res judicata and cannot be reopened. There can also be no question of res judicata in a case where signs of fraud or collusion are transparently pregnant or apparent from the facts on record." In paragraph 10, Their Lordships further declared thus:—*

*"... Section 44 of the Evidence Act envisages that any party to a suit or proceeding may show that any judgment, order or decree, which is relevant under Sections 40, 41 or 42 has been obtained by fraud or collusion. Under Section 40, the existence of the judgment, order or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such court ought to take cognizance of such suit or to hold such trial." In Indian Bank v. Satyam Fibres (India) Pvt. Ltd., it was declared thus:—*

*"The authorities, be they constitutional, statutory or administrative, (and particularly those who have to decide a lis) possess the power to recall their judgments or orders if they are obtained by fraud as fraud and justice never dwell together (Fraud et jus nunquam cohabitant). Fraud and deceit defend or excuse no man*

*(Fraud et dolus nemini patrocinari debent). The judiciary in India also possesses inherent power, specially under Section 151, CPC., to recall its judgment or order if it is obtained by fraud on court. In the case of fraud on a party to the suit or proceedings, the Court may direct the affected party to file a separate suit for setting aside the decree obtained by fraud. Inherent powers are powers which are resident in all Courts, especially of superior jurisdiction. These powers spring not from legislation but from the nature and the constitution of the tribunals or courts themselves so as to enable them to maintain their dignity, secure obedience to its process and rule, protect its officers from indignity and wrong and to punish unseemly behaviour. This power is necessary for the orderly administration of the Court's business. Since fraud affects the solemnity, regularity and orderliness of the proceedings of the court and also amounts to an abuse of the process of court, the courts have been held to have inherent power to set aside an order obtained by fraud practised upon that Court."*

**25. On a overall appreciation of the observations in the aforesaid decisions, I am of the view that the award before the Lok Adalat was obtained by fraud and collusion exercised by the parties to the suit and as such, the award itself has no validity and deemed to be non-est. It is a settled law that fraud vitiates all solemn acts and an award obtained by playing fraud is nullity. Hence, this Court would be justified in setting aside the award by exercising its power under Article 227 of the Constitution of India."**

(Emphasis supplied)

11.4 A Division Bench of the High Court of Telangana, in the case of **DASARI LOKESH CHANDRA v. LOK ADALAT**<sup>6</sup> has held as follows:

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<sup>6</sup> W.P.18369/2021 decided on 20.12.2021

".... ....

**6. Point No.1:-**

Arguing at length in respect of the merits of the case, the learned counsel for the petitioner contended that the petitioner is a bona fide purchaser of Plot Nos.379 and 452 admeasuring 400 square yards in Survey No.175 of Patancheru Mandal, Sangareddy District and he purchased the said property on 30.01.2021 through a registered sale deed for valuable consideration, but subsequently he came to know that an Award was passed by the Lok Adalat in respect of the said property and other property in a suit between the sons and the daughters of late Lakkaraju Laxmana Rao and the said Award is based on the terms of compromise entered into between the parties i.e., the sons and the daughters of late Lakkaraju Laxmana Rao and indeed, the said deed of compromise is a collusive one and therefore, the Award passed basing on the said deed of compromise is unsustainable. He further submitted that as there is no other remedy for the petitioner who is a third party to the proceedings to question the Award of the Lok Adalat, he filed the present Writ Petition challenging the same.

**7. Undoubtedly, challenge to an Award of the Lok Adalat can be done only by filing a Writ Petition under Article 226 or 227 of the Constitution of India, as observed by the Hon'ble Supreme Court in *Bhargavi Constructions and another Vs. Kothakapu Muthyam Reddy and others - (2018) 13 SCC 480.***

**8. Under Section 21(1) of the Legal Services Authority Act, 1987, an Award of the Lok Adalat shall be deemed to be a decree of the civil Court. Also, as per Section 21(2) of the said Act, the Award made is final and binding on the parties. Law does not provide any appeal to any Court against the said Award. Thus, only, Writ Petitions can be filed challenging the Award passed by the Lok Adalat. However, the grounds of challenge are very limited.**

**9. Observing that there may be extra-ordinary cases where a third party is meted with injustice at the behest of two or more conniving and colluding parties, who may**

have obtained the Award of the Lok Adalat by fraud or misrepresentation, the Courts in a series of decisions held that even a third party may maintain a Writ Petition challenging the Award of the Lok Adalat. One of such cases where the said observation is made is *Batchu Subba Lakshmi and others Vs. Sannidhi Srinivasulu and others – 2010(1) ALD 277 DB*, wherein a Division Bench of this Court at para 8 held as follows:-

“The parties to the compromise or settlement, which is the basis for award of Lok Adalat, no doubt entitled to challenge the award on any of the grounds referred to herein above grounds. Ordinarily, a third party cannot challenge the award in a writ petition even if such award causes prejudice. The remedy of such party would be to institute a separate suit or proceeding for necessary redressal and seek appropriate decree of declaration by filing a suit within the period of limitation prescribed under law. Under Section 34 of the Specific Relief Act, 1963, any person entitled to legal character or any right as to any property, may file a suit for declaration. Under this provision, any person can even institute a suit for declaration that the decree passed by Civil Court in an earlier suit is not binding on him. When a civil Court can even declare that an earlier decree of the Court is not binding on the party before it, we do not see any objection for a third party to institute a suit in a civil Court seeking a declaration that the award of Lok Adalat is not binding on him/her subject to the law of limitation. We however hasten to add that there may be extraordinary cases where a third party is meted with injustice at the behest of two or more conniving and colluding parties, who may have obtained an award of Lok Adalat by fraud or misrepresentation only to defeat the rights of such third party. In such cases within a reasonable period such third party may maintain a writ petition. But in such cases, there should be *prima facie* evidence of fraud or misrepresentation or collusion in obtaining the award of Lok Adalat. Even if such allegations are made and the question involves complicated questions of fact requiring voluminous evidence, third party should be left to seek remedy in a civil Court rather than preferring extraordinary remedy under Article 226 of Constitution.”

(Emphasis supplied)

The views taken in the cases of **BATCHU SUBBALAKSHMI** *supra* and **DASARI VENKATESH** *supra* were subsequently affirmed by another Division Bench of the High Court of Telangana in the case of **SMT. B. LAVANYA v. THE STATE OF TELANGANA** in **Writ Petition No.2906 of 2021**, decided on **16.12.2023**.

11.5. Therefore, in the light of the law as laid down by the Apex Court, and different High Courts, what would unmistakably emerge is that a writ petition challenging the award of the Lok Adalat filed by third parties is maintainable in extraordinary circumstances, provided that there is *prima facie* evidence of fraud, misrepresentation or collusion in obtaining the award. Further, the definition of an 'aggrieved party' to the award would also include a 'third party' to the suit, thereby allowing such third parties to challenge the award of the Lok Adalat. I therefore answer the issue holding that the present petition by a person who is not a party to the suit is entertainable owing to the peculiar facts of the case.

**ISSUE NO.3:****Whether the decree requires to be recalled in the facts and circumstances of the case?**

12. The subject issue relates to the concerned Court drawing up a procedure, which runs counter to the law, which leads to passing of the award before the Lok Adalat. Time and again, this Court, in a series of judgments has laid down the correct procedure to be followed by the trial courts while drawing a compromise decree under Order XXIII Rule 3 of the CPC and the Lok Adalat while passing an award.

12.1. In the case of **SRI ANANTHAIAH v. SMT. GANGAMMA**<sup>7</sup>, a Co-ordinate Bench of this Court has held as follows:

".... ....

**9.** From 17.01.2008, the case was adjourned to 23.01.2008 on which day the defendants were present but, the plaintiff was absent. Therefore, the case was again adjourned to

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<sup>7</sup> 2014 SCC OnLine Kar 12041

02.02.2008 on which day the plaintiff as well as the defendants were present before the Court and the matter was referred to Lok Adalath. On receipt of the records from the Court, the case was called before the Lok Adalath on the same day and the following order was passed:

*"Plaintiff and defendants are present. Already the parties arrived for a compromise and filed compromise petition u/o. 23 Ride 3 CPC. Since the matter has been compromised by the respective parties, Compromise Petition is accepted. Suit is decreed in terms of the compromise petition. Draw decree accordingly."*

And the order sheet bears the signature of the Learned Judge as well as the Conciliator.

**10.** Had the dispute been resolved by the parties to O.S. 10/2008 on 17.01.2008 as per the compromise petition the petitioner herein would have been spared the tribulation of knocking at the doors of this Court. Nothing prevented the Court from passing a decree on the compromise petition on the very day it was filed or on 2.2.2008 when admittedly all the parties to the suit were present before the Court. Strangely the Court did not choose to pass any orders on the compromise petition on both the occasions, instead referred the matter to Lok Adalath on 2.2.2008.

**11.** Whenever the parties, with the assistance of the conciliators and advocates, resolve the dispute and arrive at an amicable settlement before Lok Adalaths, there would be no victors and vanquished, and thus no rancour. In other words once dispute is resolved in Lok-Adalath, there would be no more litigation by way of appeals and revision. Thus, the actual time spent on litigation would be less than the time spent in a Civil Court.

**12.** The functions of Lok Adalaths relate purely to conciliation. A Lok Adalath determines a reference on the basis of a compromise or settlement at its instance, and puts its seal of confirmation by making an award in terms of the compromise or settlement as observed by the Apex Court in *State of Punjab v. Jalour Singh* [(2008) 2 SCC 660] . **Thus, if the parties have already entered into a compromise and report the same**

**by filing a compromise petition before the Court, nothing else is required to be done in the matter and therefore the Civil Court is not justified in referring the same to the Lok Adalath. There was no dispute existing at the time of reference to the Lok-Adalath, which is a condition precedent for reference. When the compromise petition is filed before the Court, it is the obligation on the part of the Court to look into the compromise, find out whether the same is lawful or not. If the compromise is lawful, the Court has to record the same. In a situation like the one on hand if the Judge refers the matter to Lok Adalath, it is a clear case of abdication of responsibility of considering the compromise petition by the Judge and refusing to pass an order thereon.**

**13.** It is thus evident from the orders passed in O.S. 10/2008 that the Learned Judge did not know what he was expected to do when a compromise petition was filed before the Court under Order XXIII Rule 3 of CPC. It appears that he does not know which matter should be referred to Lok Adalath and at what stage the cases are to be referred to Lok Adalath. It is interesting to note that the very Judge, who referred the matter to Lok Adalath, sat in the Lok Adalath on 2.2.2008 the very same day of reference and accepted the compromise, passed the order giving credit to the Lok Adalath for speedy disposal of the cases. In the process, he, neither as a Judge nor as judicial member presiding over the Lok Adalath, applied his mind to the terms of compromise.

**14.** The original grantee of the suit land Chikkaiah died on 18.5.1980 and the plaintiff claiming to be the daughter of Chikkaiah filed the suit for declaration of title nearly after 28 years after his death, asserting that she is in peaceful possession and enjoyment of the property. Now, the petitioner herein claims that he is the only son of the grantee of suit land late Chikkaiah and the plaintiff in O.S. 10/2008 Gangamma is not daughter of said Chikkaiah and therefore has nothing to do with him or the property in question. The petitioner along with the writ petition has produced number of documents to show that he is the son of Chikkaiah.

**15.** Admittedly on the date of filing the suit the plaintiffs name was not entered in the revenue records and she had not produced any documents to show that she is the daughter of late Chikkaiah. **The persons who were said to be attempting to dispossess her from the suit property appeared before the Court without notice or summons and filed a compromise petition accepting her title. From this it is clear that the Learned Judge and the conciliator have failed to apply their mind to the facts and circumstances of the case and the manner in which parties had compromised the matter as well as the terms of compromise. It is a clear case of collusion. A collusive decree/order is non est in the eye of law and void ab initio.**

**16.** This is a clear case of fraud played on the Court as well as the Lok Adalath. It is this aspect that hurts the administration of justice. It is here the High Court cannot be a silent spectator to the happenings before the Lok Adalath. This case should be an eye opener to Learned Judges as to how the parties are abusing the process of Lok Adalath to achieve what possibly could not be achieved in the Court. Whether it is in the Court or before the Lok Adalath, law is well settled *'whenever an agreement is entered into it should be lawful.'* If the agreement is not lawful, there is no question of passing an order accepting the same by the Lok Adalath.

**17.** It is to be borne in mind that every Presiding Judge of a Court or the Lok Adalath shoulders an onerous duty of finding out if the terms of the compromise are lawful and in a suit for declaration of title, to find out whether the person in whose favour declaration is sought has got a valid title to the property or not and only thereafter accept the compromise and pass orders. These things have not been followed in this case and the Judge has become an easy prey to the fraud played by the parties. **Only for statistical purposes one case is resolved in the Lok Adalath but in reality, such resolution of dispute has given rise to the present Writ Petition thereby reducing the ADR method of Lok Adalath to a farce. Therefore, every one of us has a duty to see that the purity and**

**sanctity of the alternative dispute resolution mechanism called Lok Adalath is not misused or abused.”**

(Emphasis supplied)

12.2. In the case of **SMT. RENUKA W/O ANAND @ ANANTSA BAKALE v. SRI. RAMANAND S/O RAMKRISHNASA BASAWA<sup>8</sup>**, another Co-ordinate Bench of this Court has held as follows:

“... ..

20. This Court has also been coming across several matters relating to such compromise before the Lok-Adalat which are challenged by way of writ petitions. Hence, I also deem it fit to issue general directions in respect of such matters which are referred to Lok-Adalat and compromise recorded as under:

- (i) **When a compromise is filed before the Court in terms of the decision in Smt.Akkubai vs. Shri Venkatrao and Others [ILR 2014 KAR 2051] (supra) it is for the Court to record the compromise and not refer the matter to the Lok-Adalat.**
- (ii) **It is only if there is no settlement arrived at before the Court and the parties request for the matter to be referred to Lok-Adalat to enable a settlement then in such event the parties are to be referred to the Lok-Adalat and in the event of a compromise being arrived at before the Lok-Adalat, the same could be recorded by the lok-Adalat.**

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<sup>8</sup> W.P.NO.103766 OF 2018 (GM-RES), DISPOSED ON 31-03-2022

- (iii) When the matter is referred to Lok-Adalat, separate order sheets would have to be opened and maintained by the said Lok-Adalat and the order sheet of the Court in the suit cannot be used by the Lok-Adalat.**
- (iv) The trial Court and or the Lok-Adalat while recording compromise is required to ascertain if the parties are present personally as also to ascertain and verify their identities by production of suitable documentary proof.**
- (v) In the event of a power of attorney appearing, it would be the bounden duty of the Court or the Lok-Adalat to ascertain if the concerned party has been served with notice.**
- (vi) The Court as also the Lok-Adalat would always have to be suspicious if the party were to enter appearance even before service of notice which is a red flag that there is something that is fishy in the matter.**
- (vii) When recording a compromise being entered into by a power of attorney, the original of the power of attorney is required to be examined by the Court and the Lok-Adalat and necessary endorsement made in the order to that effect and the original power of attorney returned to the parties.**
- (viii) As far as possible the trial Court and or the Lok-Adalat to secure the presence of the party and obtain signature of such party rather than the power of attorney.**

- (ix) **The Trial Courts shall ensure that proper and acceptable proof of identity of the parties to proceedings as mandated by the Government for various purposes (such as Aadhar Card, Driving Licence, Passport Copy, Election Identity card, etc.,) are obtained as a matter of rule.”**

(Emphasis supplied)

12.3 Yet again, another Co-ordinate Bench of this Court in the case of **ABHISHEK v. CHOURADDY**<sup>9</sup>, has held as follows:

“... ..

48. Thus, the judgment and decree passed by the trial court in dismissing the suit is liable to be set aside accordingly it is set aside by decreeing the suit filed by the plaintiffs.

#### **SOME OBSERVATIONS AND DIRECTIONS ON LOK ADALAT**

**“The Lok Adalat is an unique institution which does handle only their mutual disputes and points of contention but also contributes to their well-beings in several other ways. It means the aspirations of the people by getting them economic and social justice. Their main aim is to settle the dispute in such a manner that the mutual relations of the disputants remains practically the same as existed before the commencement of such a disputes. They aim not only at the restoration of normal relations between the disputing individuals and families but also at a better and more lasting solution of the problem so that their future relations might not get strained at a slight provocation and a tense situation in the immediate future might be avoided. More so, Lok Adalat lays a great emphasis on the social aspect of the dispute also. Obviously, it holds that the aim of justice is not to pronounce a barren decision on the basis of law evidence only**

<sup>9</sup> REGULAR FIRST APPEAL NO.100154 OF 2015 (PAR/POS), 25-04-2024

but that it should also have two aims and objectives in its decision-making process: (a) The wrong doer might repent and mend his ways and may not repeat the wrong, and (b) the tension between the two parties may be minimized so that their mutual relations might again get normalized. It always aims at the removal of misunderstanding at the initial state so that any trivial disputes might not grow into proportions and reach a point of no return.

From the above study of Lok Adalat it is now quite evident that the mechanism of Lok Adalat is not just a dispute resolution forum or a contrivance introduced to reduce court arrears, but a peoples movement for orderly progress through rule of law and participate in self-government in the cause of social justice. To quote Madhava Menon."

"Lok Adalat has the potential for social reconstruction and legal mobilization for social change. It can influence the style of administration of justice and the role of lawyers and judges in it. It can take law closer to the life of the people and reduce disparity between law in the books and law in action. Of course, in wrong hands it has also the potential to undermine stability and respect for the system of justice and to act as yet another forum of exploitation of ignorant and poor masses. It may be used by self-seeking politicians, lawyers and judges to advance their own interests and malign their enemies in the profession. It may become another bureaucracy if attempted to be stereotyped and made an appendage of the formal court system. The dangers are infinite and the potentialities are limitless."

[Courtesy: Lok Adalats in India, authored by Sunil Deshta, published by Deep and Deep Publications 1995 Edition.]

(Emphasis supplied)

49. The Hon'ble Supreme Court in the case of **STATE OF PUNJAB & ANOTHER VS. JALOUR SINGH & OTHERS**

**reported in (2008) 2 SCC 660** were pleased to observe at Paragraph Nos.8 & 9 as follows:

"8. It is evident from the said provisions that Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance, and put its seal of confirmation by making an award in terms of the compromise or settlement. When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the court from which the reference was received, for disposal in accordance with law. No Lok Adalat has the power to "hear" parties to adjudicate cases as a court does. It discusses the subject matter with the parties and persuades them to arrive at a just settlement. In their conciliatory role, the Lok Adalats are guided by principles of justice, equity, fair play. 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.

9. But we find that many sitting or retired Judges, while participating in Lok Adalats as members, tend to conduct Lok Adalats like courts, by hearing parties, and imposing their views as to what is just and equitable, on the parties. Sometimes they get carried away and proceed to pass orders on merits, as in this case, even though there is no consensus or settlement. Such acts, instead of fostering alternative dispute resolution through Lok Adalats, will drive the litigants away from the Lok Adalats. The Lok Adalats should resist their temptation to play the part of Judges and constantly strive to function as conciliators. The

endeavour and effort of the Lok Adalats should be to guide and persuade the parties, with reference to principles of justice, equity and fair play to compromise and settle the dispute by explaining the pros and cons, strength and weaknesses, advantages and disadvantages of their respective claims.”

50. Certain observations regarding Lok Adalath in the background of the case, as discussed above the Court opines and imperative to observe certain aspects on the institution of Lok Adalat and necessary directions are liable to be issued which are as follows:

51. The Legal Service Authorities Act, 1987 is enacted to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not to be denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalat to secure that operation of the legal system promotes justice on the basis of equal opportunity.

52. The discussion in the present case is only confined to organize Lok Adalat and not permanent Lok Adalat. It secures operation of legal system to promote justice. Section 2(d) Legal Services Authority Act stipulates as follows:

“Section 2(d) ‘Lok Adalat’ means a Lok Adalat organized under chapter VI.”

53. Under Chapter-VI, section 19 stipulates organization of Lok Adalats. Section 20 enshrines cognizance of cases by Lok Adalats. Section 21 says ‘award of Lok Adalats’. Section 22 stipulates powers of Lok Adalat and Permanent Lok Adalat.

54. Organization of Lok Adalat is as such intervals and places and for exercising such jurisdiction for the areas. Sub-section (5) of Section 19 of Legal Services Authority Act which stipulates as follows:

“(5) 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:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law."

**55. Therefore, Lok Adalat is to determine and to arrive at compromise of the dispute in respect of any case pending before it or pre litigation of it by conciliation. Therefore, it is function of Lok Adalat to determine and to arrive at a compromise or settlement between the parties in respect of dispute by holding negotiations and conciliations. The Lok Adalats shall not decide any case which do not have any element for negotiations/conciliation. If compromise petition is filed by invoking the provision of Order 23 of the Code of Civil Procedure and if the parties are present at the time of submitting the compromise petition and stated they have compromised the matter then the matter shall not be referred to Lok Adalat since, the matter is already settled between the parties and reduced into writing in the compromise petition. Therefore, where already the matter is settled/compromised between the parties and reduced into writing in compromise petition, then the Court itself shall pass an appropriate order without referring to the Lok Adalat, on the compromise petition.**

56. If parties have agreed or one of the parties thereof makes an application to the Court for referring the case to Lok Adalat and if the Court is prima facie satisfied that there are chances of such settlement or the Court is satisfied that the matter is an appropriate one, cognizance of which is to be taken by Lok Adalat, the Court shall refer the case to Lok Adalat. **But, where one of the parties only makes an application to refer the case to Lok Adalat or the Court is satisfied that the matter is fit to be referred to Lok Adalat, but before referring to Lok Adalat the Court shall give reasonable opportunities of being heard to the parties or to the Advocates.**

57. The Lok Adalat shall have no jurisdiction in respect of any case or a matter relating to of which is not compoundable under any law.

58. The Lok Adalat **shall not** take up the case or matter pertaining to grant of divorce or annulment of marriage. It is task of the Lok Adalat to make endeavour to unite husband and wife by negotiation/conciliation but shall not pass decree of divorce or annulment of marriage.

59. The Lok Adalat shall pass decree after referring the case to it referred by the Court as expeditious as possible by fixing dates of Lok Adalat of its convenient dates and places of convenience by holding negotiations/conciliation not later than three months from date of referring the case by the Courts and receipt of the matter by the office of the Legal Services Authority at Taluk, District and at the office of the High Court Legal Service Committee.

60. If there is no settlement and compromise arrived at in the Lok Adalat between the parties, the records of the case shall be returned to the court with an advice to the parties to seek remedy in Court after referring the case to Court. The Court without being influenced what has transpired in Lok Adalat, the Court shall decide the case on merits in accordance with law.

**61. The Lok Adalat shall ensure itself there should not be any fraud, coercion, undue influence, threat or any other mode of impersonation of the parties at the time of negotiations/conciliation in the process of compromise.**

62. The Lok Adalat after referring the cases from the Court, may hold pre conciliation meetings between the parties in the presence of advocates. The object of holding pre conciliation meetings is to save time of Lok Adaklat process. During pre conciliation meetings assistance may be taken of by the law interns, social activities, advocates and may by following modalities:

- (A) *Presentation and registration of case.*
- (B) *Issuance of invitation letters to the opposite parties for attending the session of Lok Adalat along with witness and friends on a specific date for the settlement of disputes.*

- (C) *Starting of the hearing process.*
- (D) *The summation of disputes matter.*
- (E) *Nomination of the any person for negotiation.*
- (F) *Deliberation by parties, advocates, social activities in the case on hand and the proclamation of the out come of compromise.*
- (G) *Approval of the compromise by Lok Adalat.*
- (H) *Preparation of the Decrees/Award.*

**THE PROCEDURE FOLLOWED BY LOK ADALAT MAY BE SUMMED UP AS FOLLOWS:**

- 1. The Lok Adalat, at first instance calls both the parties to the disputes for the presentation of their case before it.***
- 2. It asks for elucidation on the points of disputes and afford opportunities for both the parties to explain their view points of the disputes.***
- 3. The members of the Lok Adalat endeavours to provide guidelines for both the parties for arriving at truth of the matter.***
- 4. The Lok Adalat provides even a solution with regard to resolution of dispute in case of any difficulty faced by them in the decision-making process.***
- 5. A Kararkhat is finally drawn on the basis of the pre consent of the parties and the signed by the both parties in the presence of the members of the Lok Adalats.***
- 6. The Lok Adalats take initiative to acquaint the regular Court with the resolution of dispute and request for the execution of agreement arrived at between the parties***
- 7. Finally, the Lok Adalat request the Court to withdraw the case of the party on the lines***

***agreed to by both the parties before the Lok Adalat.***

63. Before the Lok Adalat the parties shall produce their identity by producing Aadhar Card, PAN Card, Voter identity Card or any other document for the purpose of identification of the parties.

64. In the case of minors and the parties want to get compromise also on behalf of minors, the Lok Adalat shall not pass decree/award unless there is judicial order from the Court as per Order 32 of Code of Civil Procedure of permission or by any other law. The Lok Adalat also shall not pass order on application for condonation of delay. It is the function of the Court to consider application under the provisions of the Limitation Act for condonation of delay, but not by the Lok Adalat.

65. The Lok Adalat shall not keep pending the matter for negotiation/conciliation for more than three months, if matter/case is not settled or compromised within the period of three months, then the case records shall be returned to the Court.

66. The Lok Adalat while conducting negotiation/conciliations shall ensure fair play, principle of natural justice, equity and to ensure providing justice to the parties.

67. The Lok Adalat shall not pass *ex parte* decree/award.”

(Emphasis supplied)

12.4. The Co-ordinate Benches in the afore-quoted judgments have clearly laid down certain guidelines as to how the concerned Court should act while an application for compromise is made. The Co-ordinate Benches hold that if there no settlement arrived at before the concerned Court, and if the parties make a request to

refer the matter to the Lok Adalat to enable the same, it is only then the matter should be referred to the Lok Adalat by the concerned Court. Further, if the parties have already entered into a compromise and file a compromise petition under Order XXIII Rule 3 of the CPC before the concerned Court, then the concerned Court should not refer the matter to the Lok Adalat and should instead adjudicate upon the validity of the compromise by itself. In the case at hand, when a compromise petition under Order XXIII Rule 3 of the CPC was filed before the concerned Court, the Court, instead of adjudicating upon the compromise by itself, refers the matter to the Lok Adalat for the mere asking of the parties and the award is passed on the same day. Therefore, there are gross procedural aberrations by the concerned Court in the case at hand. On all these factors, what would unmistakably emerge is the obliteration of the compromise and restoration of the suit.

12.5 Further, the Apex Court, in the case of **NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY (NOIDA) v. YUNUS**<sup>10</sup>, while differentiating between an award passed by the

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<sup>10</sup> (2022) 9 SCC 516

Lok Adalat and a compromise decree under Order XXIII Rule 3 of the CPC holds that an award of the Lok Adalat is not a compromise decree in terms of Order XXIII Rule 3 of the CPC. The Apex Court observes as follows:

“.... ....”

### ***Findings***

**37.** The object of the 1987 Act inter alia as can be noticed from the Preamble to the Act, also is the organisation of Lok Adalats. It is clear beyond the shadow of any doubt that the jurisdiction of the Lok Adalat under Section 20 is to facilitate a settlement of disputes between the parties in a case. It has no adjudicatory role. It cannot decide a lis. All that it can do is to bring about a genuine compromise or settlement. Sub-section (4) of Section 20 is important insofar as the law giver has set out the guiding principles for a Lok Adalat. The principles are justice, equality, fair play and other legal principles. The significance of this provision looms large when the Court bears in mind the scheme of Section 28-A of the Act.

**38.** The scheme of Section 28-A of the Act is unmistakably clear from its very opening words. What Section 28-A contemplates is a redetermination of compensation under an award passed under Part III. Part III takes in Section 23. Section 23 deals with the matters to be taken into consideration. Various aspects including the market value on the date of the notification under Section 4(1) are indicated. What we wish to emphasise is that elements of Section 23 are not in consonance as such with the guiding principles set out in Section 19(4) of “the 1987 Act” which are to guide a Lok Adalat. When the Court deals with the matter under Section 18, in other words, it is bound to look into the evidence and arrive at findings based on the evidence applying the legal principles which have been enunciated and arrive at the compensation. While it may be true that there is reference to “other legal principles” in Section 19(4) of the 1987 Act, the Lok Adalat also

can seek light from the principles of justice, equity, and fair play. The Lok Adalat by virtue of the express provisions is only a facilitator of settlement and compromise in regard to matters which are referred to it. It has no adjudicatory role (see *State of Punjab v. Jalour Singh* [*State of Punjab v. Jalour Singh*, (2008) 2 SCC 660 : (2008) 1 SCC (Civ) 669 : (2008) 1 SCC (Cri) 524 : (2008) 1 SCC (L&S) 535] ).

**39.** In *Union of India v. Ananto* [*Union of India v. Ananto*, (2007) 10 SCC 748] , this Court inter alia held as follows : (*Phulan Rani case* [*State of Punjab v. Phulan Rani*, (2004) 7 SCC 555] , SCC p. 557, para 7)

"7. 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 *N.F.U. Development Trust Ltd., In re* [*N.F.U. Development Trust Ltd., In re*, (1972) 1 WLR 1548] ]. A compromise is always bilateral and means mutual adjustment. "Settlement" is termination of legal proceedings by mutual consent. The case at hand did not involve compromise or settlement and could not have been disposed of by Lok Adalat. *If no compromise or settlement is or could be arrived at, no order can be passed by the Lok Adalat.*"

(emphasis supplied)

Therefore, question of merger of Lok Adalats order does not arise.

**40.** An argument was raised by Shri Dhruv Mehta, learned Senior Counsel for the respondents, that the Lok Adalat insofar as it manifests the stand of the appellant and it being

consensual based on the consent of Noida, Noida is estopped. In this regard, he drew our attention to the judgment of this Court in *P.T. Thomas v. Thomas Job* [*P.T. Thomas v. Thomas Job*, (2005) 6 SCC 478] .

....                      ....                      ....

**51.** In the light of the principles which have been laid down, we are inclined to take the following view. An award passed by the Lok Adalat under the 1987 Act is the culmination of a non-adjudicatory process. The parties are persuaded even by members of the Lok Adalat to arrive at mutually agreeable compromise. The award sets out the terms. The provisions contained in Section 21 by which the award is treated as if it were a decree is intended only to clothe the award with enforceability. In view of the provisions of Section 21 by which it is to be treated as a decree which cannot be challenged, undoubtedly, by way of an appeal in view of the express provisions forbidding it, unless it is set aside in other appropriate proceedings, it becomes enforceable. The purport of the law giver is only to confer it with enforceability in like manner as if it were a decree. Thus, the legal fiction that the award is to be treated as a decree goes no further.

**52.** The further argument of Shri Dhruv Mehta is that apart from the award of the Lok Adalat being treated as a decree, it is also capable of being treated as an order of the Court, as the case may be. In this regard, we have already noticed the scheme of the 1987 Act. We have considered the definition of the word "case" and the word "court". We have also noticed the provisions of Section 19(5) and Section 20(1). The conspectus of these provisions would yield the following result:

**52.1. The Lok Adalat as constituted under Section 19(2) would have jurisdiction inter alia to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of any case pending before any court for which the Lok Adalat is organised. The word "court" in this context would mean the court as defined in Section 2(aaa) viz. a civil, criminal or Revenue Court. The word "court" also includes any tribunal or any authority constituted under any law for the time being in**



**becomes a compromise decree only when the procedures in the Code are undergone.**

**64. An award passed under Section 19 of the 1987 Act is a product of compromise. Sans compromise, the Lok Adalat loses jurisdiction. The matter goes back to the court for adjudication. Pursuant to the compromise and the terms being reduced to writing with the approval of the parties it assumes the garb of an award which in turn is again deemed to be a decree without anything more. We would think that it may not be legislative intention to treat such an award passed under Section 19 of the 1987 Act to be equivalent to an award of the court which is defined in the Act as already noted by us and made under Part III of the Act. An award of the court in Section 28-A is also treated as a decree. Such an award becomes executable. It is also appealable. Part III of the Act contains a definite scheme which necessarily involves adjudication by the court and arriving at the compensation. It is this which can form the basis for any others pressing claim under the same notification by invoking Section 28-A. We cannot be entirely oblivious to the prospect of an "unholy" compromise in a matter of this nature forming the basis for redetermination as a matter of right given under Section 28-A."**

(Emphasis supplied)

#### **SUMMARY OF FINDINGS:**

13. On the observations made above, a decree drawn on the compromise entered into before the Lok Adalat, is not a compromise that is entered into under Order XXIII Rule 3 of the CPC. Therefore, the writ petition alone is maintainable challenging the said compromise. Even a third party in certain circumstances

depending upon the facts of a case, can prefer a writ petition challenging the award of the Lok Adalat on the score that fraud was committed by not arraying the petitioner as a proper and necessary party to the suit. If a compromise petition under Order XXIII Rule 3 of the CPC is filed before the concerned Court, the concerned Court has to mandatorily decide upon the compromise and not refer the matter to the Lok Adalat. The concerned Court can refer the matter to the Lok Adalat only upon the joint request of all the parties to the suit.

14. The procedure is clear as is laid down by the Co-ordinate Benches of this Court in the judgments as quoted hereinabove. The concerned Courts shall follow the procedure, failing which, the concerned Courts would be generating litigations and there will be mushrooming of cases before this Court.

15. For all the aforesaid reasons, the following:

**ORDER**

- (i) The Writ Petition is ***allowed.***
- (ii) The impugned decree dated 08.07.2023, drawn by the II Additional Civil Judge and JMFC,

Hospete, in O.S.No.165/2023 stands quashed and the suit in O.S.No.165/2023 is restored to the file.

- (iii) In the event of any financial transaction has happened pursuant to the compromise in the suit, the same shall be deposited before the concerned Court, which shall however remain subject to the result of the proceedings in O.S.No.165/2023.

Ordered accordingly.

**SD/-**  
**(M.NAGAPRASANNA)**  
**JUDGE**

nvj  
CT:SS