



IN THE HIGH COURT OF KARNATAKA



KALABURAGI BENCH

DATED THIS THE 18<sup>TH</sup> DAY OF MARCH, 2024

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA

**WRIT PETITION NO.205205 OF 2019 (GM-CPC)**

**BETWEEN:**

SMT. POOJA,  
D/O SHANKARGOUDA BIRADAR,  
(W/O MADIWALAPPA MUJGOND),  
AGED ABOUT 20 YEARS,  
OCC: HOUSEHOLD,  
R/O LACHYANA, TQ: INDI,  
DIST: VIJAYPUR-586101.

...PETITIONER

(BY SRI S. S. MAMADAPUR, ADVOCATE)

**AND:**

1. SRI SIDDANNA,  
S/O GUNDERAO BIRADAR,  
AGED ABOUT 57 YEARS,  
OCC: AGRICULTURE,  
R/O TAVARKHED, TQ: SINDAGI,  
DIST: VIJAYAPUR-586101.
2. SRI GUNDURAO,  
S/O BANDAPPA HIREGOUDAR  
AGED ABOUT 62 YEARS,  
OCC: AGRICULTURE,  
R/O KOGWAD VILLAGE,  
TQ: AFZALPUR,  
DIST: KALABURAGI-585101.





3. SMT. LAXMIBAI,  
W/O GUNDERAO HIREGOUDAR,  
AGED ABOUT 57 YEARS,  
OCC: HOUSEHOLD WORK,  
R/O KOGWAD VILLAGE,  
TQ: AFZALPUR,  
DIST: KALABURAGI-585101.
  
4. SRI SHIVALINGAPPA  
S/O VITHAL JAMADAR  
AGED ABOUT 45 YEARS,  
OCC: AGRICULTURE,  
R/O TAVARKHED,  
TQ: SINDAGI,  
DIST: VIJAYPUR-586101.

...RESPONDENTS

(BY SRI MAHADEV S. PATIL, ADVOCATE FOR R1;  
SRI RAVI B. PATIL, ADVOCATE FOR R2 AND R3;  
R-4 IS SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ORDER OR ANY OTHER DIRECTION IN THE NATURE OF WRIT QUASHING/SETTING ASIDE THE COMPROMISE DECREE DATED 27.10.2007 PASSED BY THE TALUKA LEGAL AUTHORITY SINDAGI (LOK ADALATH) IN O.S.NO.394/2007 VIDE ANNEXURE-F AS WELL AS THE EXECUTION PROCEEDING IN E.P.NO.3/2018 AS PR THE ANNEXURE-G PENDING ON THE FILE OF THE CIVIL JUDGE AND JMFC COURT, SINDAGI.

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



**ORDER**

Heard Sri S. S. Mamadapur, learned counsel for the petitioner, Sri Mahadev S. Patil, learned counsel for respondent No.1 and Sri Ravi B. Patil learned counsel for respondent Nos.2 and 3.

2. The present writ petition is filed with the following prayer:

- "i) *Issue a writ of certiorari or order or any other direction in the nature of writ quashing/setting aside the compromise decree dated 27-10-2007 passed by the Taluka Legal Authority, Sindagi (Lok Adalath) in O.S.No.394/2007 vide Annexure-F as well as the execution proceeding in EP No.3/2018 as pr the Annexure-G pending on the file of the Civil Judge and JMFC Court, Sindagi in the interest of justice and equity.*
- ii) *Grant such other relief as this Hon'ble Court deems fit to grant under the facts and circumstances of the case."*

3. Brief facts of the case are as under:



The petitioner being the minor defendant in O.S.No.99/2007 was represented by her grandfather namely Gunderao. Suit purportedly ended in a compromise by filing a petition under Order 23 Rule 3 of CPC. An application was also filed by the learned counsel for the petitioner under Order 32 Rule 7 of CPC for permitting grandfather of the petitioner seeking permission to enter into compromise.

4. The Lok Adalath presided over by the Civil Judge (Sr.Dn.) and JMFC, Sindagi as conciliator No.1 and Member Secretary, Taluka Legal Serviced Committee as conciliator No.2 and another conciliator (name not forthcoming) allowed I.A. No.3 and compromise petition filed under Order 23 Rule 3 of CPC dated 27.10.2007 at Annexure – E and decreed the suit in terms of Annexure – E. The same was challenged before this Court by filing the present writ petition after the petitioner receiving notice in the execution petition.



5. Sri S.S. Mamadapur, learned counsel for the petitioner contended that the decree of the Lok – Adalath cannot be challenged anywhere else except by filing the writ petition and therefore, the petitioner has approached this Court by filing this present writ petition.

6. *Per contra*, Sri Mahadev S. Patil, learned counsel for contesting respondent contended that the Trial Court considering the memo filed by the parties before it referred the matter to Lok – Adalath by order dated 08.10.2007. Before the Lok – Adalath Annexure – E came to be filed under Order 23 Rule 3 of CPC, as also an application came to be filed under Order 32 Rule 7 of CPC. Therefore, the order accepting the compromise by the Lok – Adalath is just and proper.

7. Having heard the learned counsel for the parties, this Court perused the material on record meticulously. On such perusal of the material on record, it is crystal clear that the proceedings before the Lok – Adalath is not a judicial proceedings. It may be a fact



that a Judicial Officer preside over the Lok – Adalath as a conciliator along with an advocate conciliator. But before the Lok-Adalath such a Judicial Officer is not entitled to discharge the job of a '**Judge**' and his role is only that of a conciliator.

8. Therefore, by sheer logic, it would result that the Lok – Adalath cannot entertain an application filed under Order 23 Rule 3 of CPC or for that matter, any other applications where judicial orders are required to be passed.

9. Further, it is settled principles of law that the petition filed under Order 23 Rule 3 of CPC is to be accepted by the Court after entering satisfaction. Such a power is not available to the conciliators who preside over the Lok – Adalath (One of them being a Judicial Officer, but will be acting as a conciliator).

10. Under such circumstances, since the conciliators have exercised the judicial powers while



presiding over the Lok – Adalath, order passed by the Lok – Adalath in accepting the compromise and directing the decree of the suit needs to be set aside as it is oppose to the settled principles of law.

11. Accordingly, the following:

**ORDER**

- i. The Writ Petition is allowed.
- ii. The order accepting the compromise by the Lok – Adalath and in pursuance thereof, the decree passed in O.S.No.394/2007 is hereby set aside.
- iii. The matter is restored to the suit in O.S.No.394/2007 on the file of Civil Judge (Sr.Dn.) Sindagi for disposal in accordance with law.
- iv. The parties shall appear without further notice before the Court on Civil Judge (Sr.Dn.), Sindagi on 04.04.2024 taking



note of the fact that the suit is of the year 2007, the learned Civil Judge (Sr.Dn.), Sindagi is directed to dispose of the suit at the earliest and not later than 31.12.2024.

- v. Needless to emphasise that the parties shall co-operate for the same and in that direction, the writ petitioner shall file written statement positively on 04.04.2024.
- vi. However, if the parties intend to settle the dispute amicably in the suit, this order would not come in any way of settling the dispute amicably.

**Sd/-  
JUDGE**