

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
::HYDERABAD::**

* * *

WRIT PETITION No.12116 of 2024

Between:

Takur Laxmi and Others.

Petitioners

VERSUS

The Mandal legal Services
Committee and Others.

Respondents

ORDER PRONOUNCED ON: 03.10.2024

**THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE N.TUKARAMJI**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to see the fair copy of the Judgment? : **Yes**

P.SAM KOSHY, J

*** THE HON'BLE SRI JUSTICE P.SAM KOSHY**

AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

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! Counsel for the Petitioner(s) : Mr. C.Anvesh Kiran, learned
counsel appearing on behalf of
Mr. Manideep Madhavarapu.

^Counsel for the respondent(s) : Mr. Shashi Kiran Pusluri, learned
Standing Counsel for TSLSA
appearing on behalf of
respondent No.1.

Learned Special Government
Pleader for Revenue appearing on
behalf of respondent Nos.2, 3
and 6.

<GIST:

> HEAD NOTE:

? Cases referred

(2008) 2 Supreme Court Cases 660

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

WRIT PETITION No.12116 of 2024

ORDER: (per the Hon'ble Sri Justice **P.SAM KOSHY**)

Heard Mr. C.Anvesh Kiran, learned counsel appearing on behalf of Mr. Manideep Madhavarapu, learned counsel for the petitioners, Mr. Shashi Kiran Pusluri, learned Standing Counsel for TSLSA appearing on behalf of respondent No.1; and the learned Government Pleader for Revenue appearing on behalf of respondent Nos.2, 3 and 6.

2. The instant is a writ petition filed by the petitioners under Article 226 of the Constitution of India challenging the order dated 30.10.2023 in P.L.C.No.647 of 2023 passed by the Mandal Legal Services Committee / Junior Civil Judge at Bhainsa (for short the 'MLSC') and also the consequential order passed by the District Collector, Nirmal, vide Proc.No.D1/576/2021.

3. The facts of the case are that the respondent No.4 approached the respondent No.2 / Tahsildar, Kuntala Village, Nirmal District seeking a direction for ensuring compliance of the decree dated

24.07.2023 passed by the Civil Court in O.S.No.91 of 2022. What led the respondent No.4 filing the P.L.C. before the MLSC at Bhainsa was a decree that was obtained by her in a Suit for partition filed by her before the same Court i.e. O.S.No.91 of 2022 and which stood decreed in her favour holding that she was entitled for 1/3rd share in the Suit schedule property. Upon the said P.L.C. being filed by respondent No.4, which was registered as P.L.C.No.647 of 2023, that the impugned order was passed.

4. The MLSC which took up the P.L.C. case was of the opinion that since there was a judgment and decree in favour of respondent No.4, dated 24.07.2023 in O.S.No.91 of 2022, there was no reason why respondent No.2 should not ensure compliance of the said order and also ensure that the mutation proceedings are concluded in favour of respondent No.4 at the earliest.

5. After hearing the respondent No.4 / petitioner and respondent No.2, the MLSC allowed the pre-litigation case and directed the respondent No.2 to mutate the name of respondent No.4 as also names of other defendants in O.S.No.91 of 2022 in the revenue records in respect of the Suit schedule property within a period of

two weeks from the date of the order. The MLSC further also directed the office of the said Court for preparation of the final decree without waiting for respondent No.4 to file an application for the same.

6. Learned counsel for the petitioners herein contented that the impugned order is one which is in excess of jurisdiction which is otherwise conferred upon the MLSC / Lok Adalat under the Legal Services Authorities Act, 1987, while dealing with a pre-litigation case. It was further contended by the learned counsel for the petitioners that even otherwise the impugned order is not sustainable for the reason that an order passed by a Lok Adalat is only to be passed by way of an agreement, settlement and compromise. Whereas, in the instant case the impugned order by itself would clearly reveal that neither was there any sort of an agreement, settlement or compromise on the basis of which the P.L.C. was decided.

7. It was also the contention of the learned counsel for the petitioners that in fact the respondent No.4 by filing the P.L.C. has been successful in getting the judgment and decree dated

24.07.2023 passed in O.S.No.91 of 2022 to be executed at the earliest without there being any execution proceedings initiated.

8. Learned Standing Counsel appearing on behalf of respondent No.1 also in his submissions has agreed to the extent that the order under challenge in the instant writ petition is not otherwise sustainable in the eye of law. According to the learned Standing Counsel for respondent No.1, the Lok Adalats are meant for ensuring that there is conciliation and settlement or a compromise to be arrived at, and based on the settlement and compromise, the matter has to be decided. According to the learned Standing Counsel all that the Lok Adalat can do is to pass a compromise award. Learned Standing Counsel also submitted that under no circumstances can the Lok Adalat adjudicate upon a matter on merits.

9. Having heard the contentions put forth on either side and on perusal of records, it would be necessary at this juncture to take note of a judgment of the Hon'ble Supreme Court in the case of **State of Punjab and Another vs. Jalour Singh and Others**¹ wherein the Hon'ble Supreme Court has held as under:

¹ (2008) 2 Supreme Court Cases 660

“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.”

From the aforesaid view of the Hon’ble Supreme Court it is evidently clear that Lok Adalat otherwise lacks jurisdiction in

exercising adjudicatory powers. Lok Adalat's role is solely to ensure conciliation between the parties and facilitate settlement / compromise between them. Lok Adalat have only power to pass compromise award. If there is no settlement or compromise, no award can be passed by the Lok Adalat and the case thereafter would go back to the concerned Court for proper adjudication.

10. We have no hesitation in reaching to the conclusion that the Mandal Legal Services Committee has extended its jurisdiction while entertaining and adjudicating the P.L.C. The Mandal Legal Services Committee or for that matter the Lok Adalats do not have the power to accept petitions where the relief sought for is implementation of the judgment and decree. The procedure by which pre-litigation cases have to be dealt with is envisaged in Clause 12 of the National Legal Services Authority (Lok Adalat) Regulations, 2009. Clause 12 of the said regulations for ready reference is reproduced herein under:

“12. Pre-Litigation matters. - (1) In a Pre-litigation matter it may be ensured that the court for which a Lok Adalat is organised has territorial jurisdiction to adjudicate in the matter.

(2) Before referring a Pre-litigation matter to Lok Adalat the Authority concerned or Committee, as the case may be, shall

give a reasonable hearing to the parties concerned. Provided that the version of each party, shall be obtained by the Authority concerned or, as the case may be, the Committee for placing it before the Lok Adalat,

(3) An award based on settlement between the parties can be challenged only on violation of procedure prescribed in section 20 of the Act by filing a petition under articles 226 and 227 of the Constitution of India.”

11. Likewise, the establishment of the Mandal / Taluk Legal Services Committee is envisaged in Section 11A and 11B of the Legal Services Authorities Act, 1987. For ready reference, the said two provisions for ready reference are again reproduced herein under:

“11A. Taluk Legal Services Committee.—

(1) The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each taluk or mandal or for group of taluks or mandals.

(2) The Committee shall consist of—

(a) The Senior-most Judicial Officer operating within the jurisdiction of the Committee who shall be the ex officio Chairman;

(b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(4) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

11B. Functions of Taluk Legal Services Committee. —

The Taluk Legal Services Committee may perform all or any of the following functions, namely:—

(a) coordinate the activities of legal services in the taluk;

(b) organise Lok Adalats within the taluk; and

(c) perform such other functions as the District Authority may assign to it.”

The aforesaid two provisions would clearly reflect the establishment of Taluk / Mandal Legal Services Committee and also the functions that can be exercised by those Committees.

12. Lok Adalats are organized and cognizance of the cases by the Lok Adalats are also that which have been clearly envisaged in Sections 19 and 20 of the Legal Services Authorities Act, 1987. The relevant portion of the said Sections for ready reference are again reproduced herein under:

“19. Organisation of Lok Adalats.—

(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

20. Cognizance of cases by Lok Adalats.—

(1) Where in any case referred to in clause (i) of sub-section (5) of section 19—

20 (i) (a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.”

13. A plain reading of all the aforesaid statutory provisions clearly establishes that in the instant case the impugned order that has been passed by the Mandal Legal Services Committee, Bhainsa, is in excess of jurisdiction and also that which is not conferred upon the said Lok Adalat under the Legal Services Authorities Act, 1987. The order under challenge is not a compromise or a settlement award or order. Rather, the order is one which appears to be a direction petition which stands allowed directing respondent No.2 for ensuring the mutation proceedings to be concluded within a stipulated period of time in favour of respondent No.4. In other words, the order under challenge in the writ petition is more in the nature of execution petition getting decided without otherwise resorting to the execution proceedings.

14. For all the aforesaid reasons, the order dated 30.10.2023 in P.L.C.No.647 of 2023 passed by the Mandal Legal Services Committee / Junior Civil Judge at Bhainsa and also the consequential order passed by the District Collector, Nirmal, vide

Proc.No.D1/576/2021 are un-sustainable and the same deserve to be and are accordingly set aside / quashed. The writ petition accordingly stands allowed. No costs.

15. As a sequel, miscellaneous petitions pending if any, shall stand closed.

P.SAM KOSHY, J

N.TUKARAMJI, J

Date: 03.10.2024

Note: LR Copy to be marked.
B/o.GSD