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**Court : Karnataka**

**Decided On : Feb-11-2003**

**Reported in : AIR2003Kant242; 2003(2)KarLJ439**

**Judge : H. Rangavittalachar, J.**

**Acts : [Legal Services Authorities Act, 1987](#) - Sections 19(5), 20(1), 20(3) and 20(4); [Code of Civil Procedure \(CPC\) , 1908](#) - Order 15, Rule 1**

**Appeal No. : Writ Petition No. 26490 of 2000**

**Appellant : Basamma**

**Respondent : Taluk Legal Services Committee and anr.**

**Advocate for Def. : Pushpakantha, Adv. for Respondent 1 and ;S.M. Chandrashekar, Adv. for Respondent 2**

**Advocate for Pet/Ap. : Manikappa Patil, Adv.**

**Disposition : Petition allowed**

**Judgement :**

ORDER

**H. Rangavittalachar, J.**

1. Petitioner is the mother. 2nd respondent is her daughter. It is the property right which has taken a better hold against the natural affection of the mother and daughter in this case. The 2nd respondent-daughter filed a suit in O.S. No. 60 of 1999 against her mother, petitioner herein on the file of the Civil Judge, Bhalki for declaration of title and permanent injunction in respect of 34.29 acres of agricultural land in Sy. No. 215 situate at Dongapur Village. The Trial Judge ordered issue of summons and directed the suit to be called on 23-7-1999. On 19-6-1999, the case was advanced at the request of the parties and the writ petitioner is alleged to have filed a written statement admitting the entire suit claim and the parties also filed a joint memo for referring the matter to the Legal Services Authority under Section 20 of the [Legal Services Authorities Act, 1987](#) ('Act' for short). The learned Civil Judge, acting on the memo, referred the matter to the Legal Services Authority, 1st respondent herein. 1st respondent took the papers on its file. By an order dated 19-6-1999 on the basis of the written statement filed before the Trial Court, decreed the suit by declaring the 2nd respondent as the owner and also restraining the petitioner by a decree of permanent injunction from interfering with 2nd respondent's peaceful possession and enjoyment. This passing of the decree by the Legal Services Authority, Bhalki is questioned in this petition by the petitioner on several grounds.

2. It is contended in the petition that petitioner was never heard by both the Civil Judge and the Legal Services Authority before decreeing the suit. Petitioner has also denied that she ever filed the written statement, the basis for decreeing the suit.

3. A detailed statement of objections has been filed by the 2nd respondent. It is contended that the petitioner did file the written statement admitting the suit claim and also signed the joint memo filed before the Civil Court for referring the matter to the Legal Services Authority. Under the circumstances, there was no need for hearing the petitioner. The Legal Services Authority has only given effect to the admissions made in the written statement. Therefore, there is no procedural illegality committed by the Authority. Writ petition therefore, is liable to be dismissed.

4. 1st respondent is represented by Ms. Pushpakantha, learned Counsel. She had made available the entire records of the Authority.
5. I have gone through the records of the Authority and heard the arguments of Sri Manikappa Patil, Counsel for the petitioner, Sri S.M. Chandrashekar, Counsel for the 2nd respondent and Ms, Pushpakantha appearing for the Legal Services Authority.
6. It is contended by Sri Manikappa Patil that when the petitioner had not admitted the contents of the written statement and subsequently denied the execution of any gift deed in favour of the 2nd respondent, learned Civil Judge before referring the matter to the Authority must have heard the petitioner under Sub-section (2) of Section 20 of the Act. That has not been done. Therefore, referring of the matter by the learned Civil Judge to the Legal Services Authority was illegal. Learned Counsel referred to the decision of this Court in Basappa and Anr. v Shobha and Ors., 2001(6) Kar. L.J. 87 : ILR 2001 Kar. 4704 in support of his contention.
7. Sri S.M. Chandrashekar, Counsel appearing for the 2nd respondent submitted that in a case where the parties file a joint memo with a request to the Civil Court for referring the matter to the Legal Services Authority, the question of hearing the parties will not arise. In such a fact situation, the proviso to Section 20(2) of the Act has no application. Secondly, he submitted that where the defendant admits the suit claim by filing a written statement the necessary consequence being decreeing the suit which has been done by the Authority. In such a case there was no need again to personally hear the defendant. Therefore, the procedure adopted by the Legal Services Authority cannot be faulted.
8. The [Legal Services Authorities Act, 1987](#) was enacted with the twin purpose of providing free and competent legal aid or legal services to weaker sections of the society and, to arrive at a compromise or a settlement of dispute between the parties. Chapter VI of the Act deals in the matter of arriving at compromise Clause 5 of Section 19 which is relevant for the present purpose reads as under:  
  
'Section 19(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'.

9. Section 20 of the Act provides for taking of cognizance by the Authority. Relevant clause of Section 20 is extracted omitting' of the clauses in the said section which is not relevant for the present purpose:

'20(1) Wherein any case referred to in Clause (i) of Sub-section (5) of Section 19.-

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

(ii) the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,

the Court shall refer the case to the Lok Adalat:

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

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

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

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

(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'.

10. By a reading of the extracted portion of Sections 19(5) and 20, it is manifest that a 'dispute' must exist before the same is sought to be resolved and secondly, the parties must be given an opportunity to represent. In other words, the existence of a dispute before the Civil Court in a pending case is a sine qua non. If there is no dispute obviously the same cannot be referred to the Authority.

11. Referring to the facts of the present case, the records disclose that the suit of the 2nd respondent herein, O.S. No. 60 of 1999 was filed before the Civil Judge, Senior Division, at Bhalki on 9-6-1999. The suit was ordered to be registered and summons was ordered to be issued to the petitioner/defendant, and the case was ordered to be called on 23-7-1999 by an order of the learned Judge on 10-6-1999. On 19-6-1999, a written statement and a joint memo were filed wherein the defendant is alleged to have admitted the suit claim. At para 8 of the written statement it is stated as follows: 'That the suit of the plaintiff may be kindly decreed as prayed by the plaintiff without costs for which the defendant has got no objections'. When in a suit or proceeding before the Trial Court in answer to the plaint averments if the defendant admits the claim of the plaintiff and prays that the suit may be decreed, there is no dispute between the parties which requires to be resolved. Under such circumstances Order 15, Rule 1 of the CPC which reads: 'Where at the first hearing of the suit it appears that the parties are not at issue on any question of law or of fact, Court may at once pronounce judgment', the Court is required to proceed to pronounce the judgment.

12. In this case, it is curious how the Civil Judge without even applying his mind to the facts and Order 15, Rule 1 of the CPC has casually referred the matter to the

Legal Services Authority even though no dispute existed between the parties for resolving or settling. It is a clear case of abdication of jurisdiction vested in the Court. Therefore, the Trial Court has committed jurisdictional error in referring the matter to the Authority.

13. Secondly, as rightly pointed out by Sri Manikappa Patil, petitioner's Counsel, when the matter is referred before the Legal Services Authority, the Authority is required to note the presence of the parties and satisfy itself that the parties have voluntarily, out of their own accord, with a free will, have entered into settlement. The purpose of Lok Adalat is only to help the parties to arrive at a settlement. The real settlement must be made by the parties. Order of the Legal Services Authorities must reflect that this procedure has been followed. But, by a reading of the order of the Authority, there is absolutely no indication that it ever followed such a procedure. The order only states that the petitioner-defendant in the Trial Court, had admitted in the written statement the suit claim. Therefore, the suit should be decreed as prayed for. That is not the manner in which the Legal Services Authority should deal with the matter.

14. In the view I am taking that the Civil Court was not right in referring the matter to the Legal Services Authority and the procedure adopted by the Authority is not right, it is unnecessary to deal with the contention raised by Sri S.M. Chandrashekar as to whether in a case where joint memo is filed by the parties to a litigation, still the Civil Court is required to follow the procedure stated in the proviso to Sub-section (2) of Section 20 of the Act.

15. For the reasons stated above, this writ petition is allowed. The entire proceedings from the stage of the matter being referred to the Legal Services Authority and the order passed by the Authority, are quashed. Matter is remitted to the file of the Civil Court with a direction to decide the matter in accordance with law in the light of the discussions made above.

16. Fee of the Counsel appearing for 1st respondent is fixed at Rs. 2,500/-.