

P. Sivakumar . Vs. Ponnusamy, and anr

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Court : Chennai

Decided On : Aug-26-2010

Judge : B.Rajendran, J.

Acts : [Constitution of India](#) - Article 227

Appeal No. : C.R.P. (NPD) No. 2799 of 2010

Appellant : P. Sivakumar .

Respondent : Ponnusamy, and anr.

Advocate for Pet/Ap. : Mr. I.C. Vasudevan, Adv.

Judgement :

1.This revision petition is listed today for admission and I heard the learned counsel for the petitioner.

2. The petitioner herein has filed the suit in O.S. No. 186 of 2009 before the learned Principal District Judge, Erode for specific performance directing the defendants/respondents herein to execute sale deed in respect of the suit property in favour of the plaintiff on receipt of the balance sale consideration to be deposited into the Court, in default, the Court may execute the sale deed; put the plaintiff into possession of the suit property and for a consequential injunction restraining the defendants/respondents herein from alienating or encumbering the suit property till the disposal of the suit.

3. It is seen from the records that the suit was referred to the Lok Adalat for exploring the possibility of settlement of the dispute. Before the Lok Adalat, the parties themselves have settled the matter and the terms of settlement were reduced into writing and based on the same, an award was also passed by the Lok Adalat on 22.01.2010. Since the defendants/respondents herein have not complied with the award passed by the Lok Adalat, the revision petitioner, for the purpose of executing the award passed by the Lok Adalat, has filed E.P. No. 186 of 2009 before the Court below, which was returned by the executing Court on the ground that the description of the property was not given in the award passed by the Lok Adalat and directed the petitioner to get the award amended. Therefore, the petitioner has approached the Lok Adalat authorities and he was informed that there is no provision for amendment of an award passed by the Lok Adalat. It was also informed that normally, the award passed by the Lok Adalat will not contain the description of the property and the description of the property already stated in the petition or plaint as the case may be followed as a matter of convention/routine.

4. The learned counsel for the petitioner contended that the court below ought not to have returned the Execution Petition. In the normal circumstances, the court below ought to have taken into consideration the description of the property given in the plaint alone or the court below itself could have clarified or verified with the Lok Adalat authorities as to whether the description of the property mentioned in the plaint tallies with the award passed by the Lok Adalat and therefore the refusal on the part of the Executing Court to entertain the Execution Petition is illegal and prayed for allowing of this civil revision petition.

5. In this connection, it is necessary to look into the provisions of Section 22E of the Legal Services Authorities Act, 1987 which reads as follows:-

"22E. Award of Permanent Lok Adalat to be final.-- (1) Every award of the permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them. (2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding. (5) The Permanent Lok Adalat may transmit any award made by it to a Civil Court having local jurisdiction and such civil Court shall execute the order as if it were a decree made by that Court.

6. As per sub-section (2) of Section 22E, every award of permanent Lok Adalat shall be deemed to be a decree of civil court. Sub-section 5 of Section 22E of the Act provides that the Permanent Lok Adalat may transmit any award made by it to a Civil Court having local jurisdiction and such civil Court shall execute the order as if it were a decree made by that Court.

7. Therefore, in the light of the aforesaid provisions, the Executing Court ought to have treated the order of the Lok Adalat as a decree passed by the Civil Court and the same has to be executed in terms of the decree passed by the Civil Court. For execution of a decree, all it requires for the executing court is to verify whether the plaint schedule property tallies with the description of property, which is the subject matter of the award passed by the Lok Adalat. But without doing so, the court below returned the Execution Petition on the ground that the decree passed by the Lok Adalat do not contain the description of the property at all which is contrary to Section 22E of the Legal Services Authorities Act. It is not open to the Executing Court to return the Execution Petition only on the ground that the award passed by the Lok Adalat do not contain the description of the properties. Even otherwise, when once the Execution Petition is numbered and notice is ordered to the other side, if there is any defect or discrepancy in the description of the property mentioned in the Execution Petition, than the one for which settlement was made before the Lok Adalat, the other side would agitate it before the Executing Court by rebutting the description of the property made in the Execution Petition. Normally, the order or award passed by the Lok Adalat cannot be appealed against and it would become final. Therefore, by returning the execution petition, the very object of settling the dispute between the parties, before the Lok Adalat, has been

thwarted by the executing Court. Merely because the award passed by the Lok Adalat do not contain the description of the property, it will not disentitle the revision petitioner to file the Execution Petition to execute the award passed by the Lok Adalat which can be treated as a decree passed by the Civil Court. Therefore, the court below ought not to have returned the Execution Petition for amendment or modification or rectification of the award passed by the Lok Adalat, instead of numbering the Execution Petition.

8. In the result, the Civil Revision Petition is allowed. However, there shall be no order as to costs. The Court below is directed to entertain the Execution Petition filed by the petitioner, number it and proceed further in accordance with law. Office to note: Office is directed to return the original Execution Petition filed along with this revision petition to the counsel for the revision petitioner to be re-presented in the lower court.

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