



2023/KER/73903

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

TUESDAY, THE 7<sup>TH</sup> DAY OF NOVEMBER 2023 / 16TH KARTHIKA, 1945

WA NO. 547 OF 2023

AGAINST THE JUDGMENT IN WP(C) 21254/2022 OF HIGH COURT OF  
KERALA

**APPELLANT/PETITIONER:**

BABUMON K.G., AGED 46 YEARS,

BY ADVS.  
LEEJOY MATHEW.V.  
SABU S.KALLARAMOOLA

**RESPONDENTS/RESPONDENTS:**

- 1 THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANTHAPURAM -695001.
- 2 THE KOCHI TALUK LEGAL SERVICES AUTHORITY OFFICE OF THE KOCHI LEGAL SERVICES COMMITTEE KOCHI, REPRESENTED BY ITS CHAIRMAN, PIN - 682005
- 3 TOTAL TRANSPORT SYSTEM LIMITED, CC 18/1839-A3, PALLICHAL ROAD PARRY JUNCTION, THOPPUMPADY, KOCHI, REPRESENTED BY MANAGER MR. BIJU D, PIN - 682005

SENIOR GOVT. PLEADER SRI.A.J.VARGHESE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



C.R

A.MUHAMED MUSTAQUE & SHOBA ANNAMMA EAPEN, JJ.

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W.A. No.547 of 2023

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Dated this the 7<sup>th</sup> day of November, 2023

JUDGMENT

A.Muhamed Mustaque,J

This intra court appeal was filed by the writ petitioner. He challenges Ext. P2 Award passed in Lok Adalath organised by the Taluk Legal Service Authority, Kochi. As seen from the Award, the appellant/petitioner has agreed to pay a sum of Rs.10,83,808/- in two instalments. The Adalath has been held at the Assistant Commissioner of Police Office, Mattanchery. Award was passed on 21.01.2019. The appellant has taken up two grounds for challenge. One is based on procedural violation and the other is referable to factual situation of alleged threat meted out by the third respondent to appellant/petitioner to sign the award.



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With regard to the procedural violation, the learned counsel for the appellant placed reliance on Regulation 12(3) of the National Legal Service Authority(Lok Adalath Regulation, 2009).

2. The provision reads thus:

*“12. Pre-Litigation matters.-*

*(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.”*

3. According to the appellant, this gives him a right to approach this Court to challenge procedural violation. It is to be noted that the appellant has come up before this Court in a Writ Petition invoking Article 226 of the Constitution of India. The Constitution itself defines the scope of judicial review. Any regulation made invoking the statutory



provision cannot enlarge or expand the scope and width of Article 226 of the Constitution of India. Nevertheless, taking note of the regulation as above, we are of the view that the intention of regulation allowing a challenge on a threshold by judicial review is on a well defined parameter under Article 226 of the Constitution of India and nothing else. Thus, procedural violation, affecting jurisdiction, the court may be able to interfere with such Award passed and mere violation itself will not be sufficient to hold that it would vitiate the award. To vitiate the award, it must be found that the authority have no competency under any other provisions to hold that such Adalath to pass an Award.

4. Learned counsel for the appellant, placing reliance on Section 20(5) of Legal Service Authorities Act, 1986 would argue that, the jurisdiction to pass Award by Lok Adalath is in a pending matter before the court and not by otherwise. It is submitted that no such case was



pending and therefore, the award is passed without jurisdiction. Learned single judge was not satisfied with the above argument and placing reliance on Section 19(5) of Legal Service Authorities Act opined that impugned award was passed as a pre litigation Award. As seen from Section 19(5), any matter falling within the jurisdiction and not pending before any court, the Lok Adalath is competent to pass such an Award.

5. Further the argument of learned counsel is placing reliance on Section 20(2) of Act. According to him, Section 20 would override all other provisions. This argument is legally untenable. According to him, there should be an application by the parties to assume a jurisdiction to pass an Award even for a case referable under Section 19(5). As seen from the Award itself the appellant is the applicant. The appellant admittedly approached the Police Commissioner raising a complaint as against the party respondent. That itself give rise to the attempt for a settlement between the



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parties. In such circumstances, we cannot find any procedural lapse affecting jurisdictional authority of Lok Adalath to pass such an Award. The court cannot interfere with such Award. The learned single judge rightly turned down the challenge.

6. Coming to the next question relating to the vitiating elements to the Award, it is to be noted that an execution petition is pending. It is not for us to decide on the matter on factual aspects. We give liberty to the petitioner to raise such ground, if any, to take up in appropriate manner.

With the observations as above, the appeal stands dismissed.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

Sd/-

SHOBA ANNAMMA EAPEN, JUDGE



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**APPENDIX OF WA 547/2023**

PETITIONER ANNEXURES

|            |                                                                      |
|------------|----------------------------------------------------------------------|
| Annexure 1 | TRUE COPY OF WRIT PETITION 21254/2022 WITH EXHIBITS                  |
| Annexure 2 | TRUE COPY OF THE COUNTER AFFIDAVIT IN WP(C) 21254/2022 WITH EXHIBITS |