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IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 13TH DAY OF JUNE, 2019

BEFORE

THE HON'BLE MR. JUSTICE ARAVIND KUMAR

WRIT PETITION No.113583/2015 (GM-CPC)

BETWEEN:

1. SHRI TOUSEEF AHMED,
S/O MOHAMMEDSAB SHAIKH,
AGE:25 YEARS, OCC:BUSINESS,
2. SHRI MOHAMMEDSAB A SHAIKH,
AGE:53 YEARS, OCC:BUSINESS,

BOTH R/O:BOMBAY CHAWL, DANDELI
(NK DISRTICT). ...PETITIONERS

(BY SRI VITTAL S.TELI, ADVOCATE)

A N D :

1. TRINITY CHRISTIAN ASSOCIATION TRUST,
HUBBALLI,
BY ITS MANAGING TRUSTEE,
SRI.ABRAHAM V JOSEPH,
AGE:47 YEARS, CCC:BUSINESS,
R/O:17TH, VIJAY NAGAR EXTENSION,
HUBBALLI TQ, DHARWAD DIST.
2. TRINITY CHRISTAN ASSOCIATION TRUST,
HUBBALLI,
BY ITS MANAGING TRUSTEE
SHRI.SHAJI V MANI,
AGE:46 YEARS, OCC:BUSINESS,
R/O:KATTAPPNA, INDUKI KERALA,
NOW RESIDING AT HUBBALLI ROAD,
MUNDGOD-581349. ...RESPONDENTS

(R1 AND R2 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER AND DECREE DATED:15.10.2014, PASSED IN OS.NO.37/2012 ON THE FILE OF CIVIL JUDGE, DANDELI (BEFORE THE LOK ADALAT) AND COPY OF THE SAME IS PRODUCED AT ANNEXURE-F AND H AND ETC.,

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

ORDER

Petitioners who were defendants in O.S.No.37/2012 are seeking for order dated 15.10.2014 Annexure-F being quashed whereunder a compromise petition filed before Lok Adalath has been accepted.

2. Having heard Sri Vittal S.Teli, learned counsel appearing for petitioners, it is noticed that respondents herein filed a suit O.S.No.37/2012 against petitioners-defendants for declaration, namely they have sought for the following reliefs:

- (a) *That the decree be passed declaring plaintiffs Trinity Christian Association Trust, Hubli is the owner of the suit property mentioned in para No.1 of the plaint,*
- (b) *That the decree be pass declaring that the sale deed dated 8-11-2010 executed by fictitious person called as Sri V.A.Joseph a*

managing trustee of Trinity Christian Association Trust, Hubli in favour of defendant No.1 be cancelled and declared as null and void and not binding on the plaintiff-Trust,

- (c) That the decree be pass awarding the actual possession of the suit property from defendant in favour of plaintiffs,*
- (d) Permission to amend the plaint as and when necessary arises be granted,*
- (e) Any other relief as deemed fit under the circumstances may kindly be granted.*

3. A memo came to be filed by learned advocate appearing for plaintiffs to refer the matter to Lok Adalath on the ground that both parties have consented for settlement. Placing the said memo on record, matter came to be referred to Lok Adalath. Matter was taken up in the Lok Adalath and after deliberations, compromise petition came to be filed under Order XXIII Rule 3 CPC which was taken on record and suit came to be disposed of in terms of compromise petition. Same is under challenge.

4. Having regard to the above facts when the case papers are perused, it would disclose that when the matter

was taken before Lok Adalath, not only petitioners-defendants were present but also their learned advocates were also present before the Lok Adalath. Both parties have affixed their signatures to the ordersheet which is also counter signed by their advocates. Infact, in the Lok Adalath, contents of the compromise petition has been read over to both parties present before the Court in kannada language by the Members of Lok Adalath and only after parties having understood the contents of the compromise petition and admitted it to be true and it was not entered into under duress, the members of the Lok Adalath have recorded a finding that terms of the compromise is lawful and accordingly, decree has been ordered to be drawn in terms of the compromise petition.

5. Though Mr.Vittal S.Teli, learned counsel appearing for petitioners/defendants would contend that there was no joint memo, two glaring facts which remain unanswered are (i) when the matter was referred to Lok Adalath by the learned judge on 15.10.2014, defendants were present before court; ii) contents of the compromise petition was read over by the members of the Lok Adalath to both

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parties who were present before the Lok Adalath and only on being satisfied that parties have entered the compromise lawfully and only after they have understood contents of the compromise petition, it has been taken on record and decree is ordered to be drawn in terms of compromise petition. As such, contention of learned counsel for the petitioner would not hold water and it is liable to be rejected and accordingly it is rejected. Consequently, writ petition is dismissed.

**Sd/-
JUDGE**

Jm/-