

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11453 of 2012

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1. Sambhu Narayan Yadav.
2. Sachidanand Yadav
Both sons of Late Deo Narayan Yadav R/O Village + P.O. Ramgang,
P.S.- Kumarkhand, District- Madhepura

.... Petitioner/s

Versus

1. Bijendra Yadav S/O Late Mahavir Prasad Yadav
2. Chetan Anand (Minor) S/O Bijendra Yadav through his father and natural guardian Bijendra Yadav.

R/O Village + P.O.- Ramganj. P.S.- Kumarkhand, District-
Madhepura.Respondent 1st set

3. Rajendra Yadav S/O Late Mahavir Prasad Yadav
4. Rohit Kumar Yadav
5. Amit @ Urmilesh Yadav

Both sons of Rajendra Yadav

6. Sarswati Devi
7. Sita Devi
8. Sushila Devi

All daughters of Late Mahavir Prasad Yadav,
All resident of Village +P.O.- Ramganj, P.S.- Kumarkhand, District-
Madhepura

.... Respondents 2nd set.

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Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey

For the Respondent/s : Mr. Sharda Nand Mishra & Deepak Kumar

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
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ORAL ORDER

3 30-11-2015 Heard learned counsel for the petitioners as well as
learned counsel for the respondents.

While Title Suit No. 49 of 1996 was pending, the
petitioners had made a prayer on 04.11.2011 under Order 1, Rule
10(2) of the Code of Civil Procedure to allow their impledation as
a party over which adjournments were granted by the learned



court below to enable the respondents to file rejoinder, which till 16.12.2011 has not been filed and was fixed for 23.12.2011. However, on 16.12.2011, the defendants, after having their presence on record with Vakalatnama filed a compromise petition on 16.12.2011 whereupon the matter was sent to Lok Adalat where the aforesaid Title Suit was disposed of in terms of order passed by the Lok Adalat ignoring the fact that on 16.12.2011, the case was adjourned for 23.12.2011.

Learned counsel for the petitioners has referred 2008(2)SCC 660 (State of Punjab and another –v- Jalour Singh and others) to substantiate the right of filing the writ under Article 227 of the Constitution against the order passed by Lok Adalat. In likewise manner, the order in L.P.A.No. 1923 of 2009 (Nawal Kishore Prasad Singh & ors Vrs. State of Bihar & ors.) has also been referred wherein it has been observed:

“A direction is issued to all Lok Adalats not to entertain the property disputes or the disputes involving contentious issues in Lok Adalat and not to record compromise in respect of such disputes, especially the property disputes. Violation of this direction will be treated as contempt of this Court.”

Learned counsel for the respondents has referred to a Division Bench judgment of this Court dated 06.11.2009 passed in C.W.J.C.No. 14426 of 2009 (Meena Choudhary & anr –v-

Dr.Dilip Choudhary & ors) in order to substantiate his submission that the petitioners have got remedy by way of filing a separate suit challenging the judgment/award of the Lok Adalat.

After going through the same, it is evident that the Division Bench had also considered the maintainability of a petition under Article 227 of the Constitution of India in the background of pronouncement made by the Apex Court as reported in 2008(2)SCC 660(supra).

However, as the plea involved therein was on the ground of fraud, therefore, directed the party to have the aforesaid facts substantiated through a regular drawn up proceeding. Herein, as it is apparent that there is no question of fraud rather there happens to be negligence on the part of the Court itself, which is apparent from the records (Annexure-3).

That being so, the order dated 18.12.2011 passed by learned Lok Adalat, Madhepura, in Title Suit no. 49 of 1996 is hereby set aside. The petition is allowed. The learned court below is directed to proceed in the matter, in accordance with law.

(Aditya Kumar Trivedi, J)

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