

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3583 of 2011**

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Laxmi Narayan Singh S/O Late Hardeo Singh Resident Of Village-  
Chakpurl, Police Station- Gopalpur (Gaurichak), District- Patna.

.... .... Petitioner/s

Versus

1. Basant Singh S/O Late Hardeo Singh Resident Of Village- Chakpurl,  
Police Station- Gopalpur (Gaurichak), District- Patna.
2. Sangam Kumar S/O Basant Singh Residents Of Village- Chakpul, Police  
Station- Gopalpur (Gaurichak), District- Patna.
3. Amit Kumar S/O Basant Singh Resident Of Village- Chakpul, Police  
Station- Gopalpur (Gaurchak), District- Patna.

.... .... Respondent/s

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**Appearance :**

|                      |   |                                          |
|----------------------|---|------------------------------------------|
| For the Petitioner/s | : | Mr. J.S. Arora                           |
|                      |   | Mr. Basant Kumar Singh                   |
|                      |   | Mr. Deovind Kr. Singh                    |
|                      |   | Mr. Prashant Kumar                       |
| For the respondents  |   | Mr. Shashi Shekhar Dwivedi, Sr. Advocate |
|                      |   | Mr. Devi Das Srivastava                  |

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR**  
**MANDAL**  
**ORAL ORDER**

8     23-09-015

Impugned in the present writ application filed under  
Article 226 of the Constitution of India is the award dated  
05.12.2003 passed by the Lok Adalat in Case No. 262 of 2003  
(Annexure-1).

Hardeo Singh had two sons, namely, Laxi Narayan  
Singh (writ petitioner) and Basant Kukar Singh. Basant Kumar  
Singh has two sons, namely, Amit Kumar and Sangam Kumar.  
Basant Kumar Singh, Sangam Kumar and Amit Kumar are  
respondent nos. 1, 2 & 3, respectively of the present writ  
application. According to both the parties, the land, which is the  
subject matter of the Lok Adalat proceeding, came in the hands of



Hardeo Singh by virtue of a compromise decree passed on 10.04.1989. According to the writ petitioner, Hardeo Singh had two sons and three daughters, namely, Chandravati Devi, Shakuntala Devi & Rajan Devi, whereas according to the respondent, he had two sons and one daughter called Chandravati Devi. In the decree passed in the partition suit Hardeo Singh was allotted 04 bigha of land while his two sons Laxmi Narayan Singh (writ petitioner) and Basant Kumar Singh (respondent no.1) were allotted 11 bighas of land each. The daughter had relinquished her share in favour of two brothers. A proceeding before the Lok Adalat was filed by the two grandsons of Hardeo Singh in which the grandfather was impleaded as respondent/opposite party. An agreement was reached between the parties and the compromise duly signed by them was filed on the basis whereof the award was passed. The land in the share of Hardeo Singh was equally divided/partitioned between the two grandsons on the basis of a 'Yaddasht Batwara' genuineness whereof was not disputed by any party. Another son of Hardeo Singh has filed the present writ application questioning the legality of such award passed by the Lok Adalat.

Heard Mr. J.S. Arora for the petitioner and Mr. S. S. Dwivedi learned Sr. Counsel for the respondents.

It has been submitted by the petitioner that the land falling in the share of grand father (Hardeo Singh) by virtue of the



award of the Lok Adalat became the land of his two grandsons(the applicants). Such transfer in the title of the land cannot be made except by a document of sale or gift registered under section 17(1(a) of the Registration Act. If there is no such document of conveyance registered the consequence whereof has been provided in section 49 of the Registration Act which would follow. The Lok Adalat while recording the compromise completely failed to appreciate the same and passed the award which is void. The petitioner was not impleaded in the said proceeding before the Lok Adalat. The award is a nullity. It is sheer abuse of process of the Court. It is a pure question of law which makes the award ab initio void enabling this Court to exercise its discretionary writ jurisdiction to set aside the same. The High Court would not permit the courts functioning under it to travel beyond jurisdiction. Disputed question of title should not have been entertained by the Lok Adalat. He has relied on the following judgments:-

**2014 (1) PLJR 476 (Srinivas Rai  
vs. Mahendra Rai) Para 9 to 14**

**2014 (2) PLJR 622 (Kumari Sushmita  
vs. Rabindra Kumar Singh) para 17  
& 19**

Per contra, Mr. Dwivedi supported the award. Referring to the counter affidavit, it has been stated that the award was passed on 05.12.2003. Two ladies claiming themselves as sisters of the writ petitioner besides Chadravati Devi filed T.S. No. 436 of 2007



in respect of 04 bighas of land falling in the share of Hardeo Singh and prayed for setting aside the award passed by the Lok Adalat on 05.12.2003. In the said suit the writ petitioner has been impleaded as one of the defendants who has filed his written statement supporting the plaintiff(s). In between, several criminal complaints were lodged by the grandfather (Hardeo Singh) against the writ petitioner and his two sons besides others alleging cruelty, assault, criminal intimidation for having parted with his share of land with the two grandsons with whom he was residing after having been ill-treated by the writ petitioner and his son. One of such complaint was filed in the year 2008 vide Complaint Case No. 834 (c) of 2008. Referring to the contents of the complaint it has been argued that an assault was inflicted on Hardeo Singh for having entered into a compromise leading to passing of the award by the Lok Adalat. Even though the suit is pending for setting aside the award the writ petition has now been filed in the year 2011 questioning the legality of the award. Indisputably, a compromise decree was passed in Partition Suit No. 592 of 1988 on 21.06.1989 by virtue whereof Hardeo Singh and his two sons got separated and received specific chunks/parcel of land. The two sons got 11 bigha each whereas the father Hardeo Singh got 04 bighas of land which is the subject matter of the proceeding before the Lok Adalat. In the family arrangement and/or on the basis of the Yaddasht Batwara a compromise was entered into and the award was passed. In a case

like this there would be no need of a document of conveyance.

I have heard the parties and perused the materials on record.

The contention of Mr. Arora is that such transfer in title of land by virtue of an award is in breach of the provision contained in the Registration Act. No one has argued before this Court that the suit land had not fallen in the share of Hardeo Singh (grandfather) by virtue of a compromise decree passed in Partition Suit No. 592 of 1988. By virtue of compromise the proceeding before the Lok Adalat was disposed of recording the agreement between the grandfather and the two grandsons with respect to the land in question which undisputedly belonged to Hardeo Singh.

It has been argued on behalf of the petitioner that the award is void ab initio whereas the respondents have argued that it is voidable one which can be avoided by filing a suit which, in case at hand, has already been filed. A document created by a person having no authority can be said to be void. However, if the person who created the document or entered into the compromise has the authority to do so then the same would be voidable. This is the basic distinction between what is void and voidable.

In **2014 (1) PLJR 476** this Court noticed the observation made in LPA No. 1923 of 2009 to the effect that the Lok Adalat should not entertain the property dispute or the dispute involving the contentious issue in the Lok Adalat and not to record



compromise in respect of such dispute. On the basis of this observation noticed in the said judgment it has been submitted by the counsel for the petitioner that the property dispute ought not to have been entertained by the Lok Adalat. I am unable to appreciate the aforesaid contention. The observation of the Court is to the effect that the contentious issue relating to the property should not be entertained by the Lok Adalat to pass the award recording compromise. Indisputably, the land which was the subject matter of the Lok Adalat proceeding belonged to Hardeo Singh. The two applicants were his grandsons. An arrangement between them taking shape of compromise would not be a contentious issue as the writ petitioner has no claim over the land allotted to his father by virtue of a decree. The grandfather by reason of compromise relinquished his right in favour of his two grandsons. There was no dispute as such between the parties. Any such award would continue to exist until set aside by a competent court on the ground of fraud/misrepresentation etc. It may be a document which cannot be admitted in evidence if created in breach of the provisions of the Registration Act but nonetheless a document/award exists until set aside. **In 2014 (2) PLJR 622** on which reliance has been placed by the petitioner to support the contention appears to be inappropriate considering the factual matrix in which the order was passed. The relief prayed for required the writ petitioner to be made party wherein a contentious issue was raised before the

permanent Lok Adalat and award detrimental to the writ petitioner was obtained. Relying on the observation made by the division bench in LPA No. 1923 of 2009 the court set aside the award as having been obtained by fraud and misrepresentation.

It has been argued by Mr. Dwivedi that the writ jurisdiction of this Court in the facts of the case should not be invoked as such jurisdiction has to be sparingly exercised only to ensure that the courts functioning under it do not act beyond the jurisdiction. More so, when a title suit has already been filed by setting up two ladies as daughters of Hardeo Singh seeking their title after setting aside the award. The respondents do not admit that Hardeo Singh had three daughters. He had left behind only one daughter called Chandravati Devi. A division Bench of this Court in unreported judgment passed in CWJC No. 14426 of 2009 (**Meena Choudhary & Anr. Vs. Dr. Dilip Choudhary & Ors.**) having considered the submission as made in this case observed/held as under:-

As discussed and held earlier, powers of Lok Adalat are not co-extensive with that of civil courts who have full power to take evidence including oral evidence and also to exercise necessary powers under Section 151 of the Code of Civil Procedure. In such situation, in our view, nothing in the Code of Civil Procedure or other law can render the petitioners remediless and following the law noticed above in the case of **Smt. Anita (supra)**, we hold that the petitioners will be entitled to invoke plenary jurisdiction of civil court to claim necessary relief on the ground of fraud or even on the grounds available to

petitioner no.1. As a proposition of law it is well established that a person who was not a party to the proceeding, will not be bound by any order passed therein unless he or she was impleaded through a representative like karta of an authorized agent who may in appropriate situations represent others.

In these factual background, in my considered view, the extraordinary and discretionary writ jurisdiction would not be invoked relegating the petitioner to seek the remedy before the civil court. A suit has already been instituted in which the petitioner is the defendant who has appeared and filed the written statement supporting the case of the plaintiff(s) wherein legality of the award passed by the Lok Adalat is also under challenge.

The writ application is dismissed.

**(Kishore Kumar Mandal, J)**

HR/-

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