

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1498 of 2014

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Allahabad Bank & Anr

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Harendra Nath Ojha

For the Respondent/s : Mr. Prashant Pratap

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 11-12-2015

Heard learned counsel Mr. Harendra Nath Ojha for the petitioners, learned counsel Mr. Surendra Kumar Choubey on behalf of respondent no.3 and learned A.C. to G.P.6 for respondent no.1.

2. The learned counsel for the petitioners submitted that permanent Lok-Adalat, Katihar in Pre-litigation Case No.32 of 2013 issued a notice communicated to the petitioners by letter no.11 of 2013 to the Branch Manager, Allahabad Bank restraining him/directing him that during pendency of the pre-litigation case in permanent Lok-Adalat he will not take any action against guarantor.

3. The learned counsel for the petitioners further submitted that the Bank did not agree to any compromise with the loanee-respondent no.3 and, therefore, the Lok-Adalat has no jurisdiction to decide the matter.

4. The Hon'ble Supreme Court in the case of **State of Punjab & Anr. Vs. Jalour Singh & Ors., (2008) 2 SCC 660** has held as follows:

“8. It is evident from the said provisions that Lok Adalats have no adjudicatory or judicial functions. Their functions relate purely to conciliation. A Lok Adalat determines a reference on the basis of a compromise or settlement between the parties at its instance, and put its seal of confirmation by making an award in terms of the compromise or settlement. When the Lok Adalat is not able to arrive at a settlement or compromise, no award is made and the case record is returned to the court from which the reference was received, for disposal in accordance with law. No Lok Adalat has the power to “hear” parties to adjudicate cases as a court does. It discusses the subject matter with the parties and persuades them to arrive at a just settlement. In their conciliatory role, the Lok Adalats are guided by principles of justice, equity, fair play. When the LSA Act refers to ‘determination’ by the Lok Adalat and ‘award by the Lok Adalat, the said Act does not contemplate nor require an adjudicatory judicial determination, but a non-adjudicatory determination based on a compromise or settlement, arrived at by the parties, with guidance and assistance from the Lok Adalat. The ‘award of the Lok Adalat does not mean any independent verdict or opinion arrived at by any decision making process. The making of the award is merely an administrative act of incorporating the terms of settlement or compromise agreed by parties in the presence of the Lok Adalat, in the form of an executable order under the signature and seal of the Lok Adalat.

5. In this matter reference may also be made to a decision of this Court in the case of **Kanti Devi Vs. The State of**

Bihar, 2012 (2) P.L.J.R. 184.

6. Therefore, in my opinion the Lok-Adalat in this present case has exceeded the jurisdiction by restraining the petitioners from proceeding ahead under the SARFAESI Act, 2002 and further that the petitioner-Allahabad Bank is not agreeing to compromise the case with the loanee- respondent no.3, the Lok-Adalat has no jurisdiction to proceed ahead.

7. Accordingly, this writ application is allowed and the notice issued by the Lok-Adalat restraining the petitioner is hereby set aside.

(Mungeshwar Sahoo, J)

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