

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7361 of 2012

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1. Kalyani Devi Wife Of Bal Krishna Jha Resident Of Mohalla-Sipahi Tola,
Police Station-Khazanchi Hat, District-Purnea, At Present At Manihari, Post
Office-Manihari, Police Station-Manihari, Distirct-Katihar

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Department Of
Home, Bihar, Patna
2. The District Magistrate, Purnea
3. The Superintendent Of Police, Purnea
4. The Sub Divisional Officer, Purnea Sub Division, District-Purnea
5. The Circle Officer, Purnea East Block, District-Purnea
6. The Officer In Charge, Police Station-Khazanchi Hat, District-Purnea
7. Binod Kumar Singh Son Of Mohan Singh Resident Of Shivajicolony,
Police Station-Khazanchi Hat, District-Purnea
8. Dhrub Kumar Singh @ Bhartijee Son Of Mohan Singh Resident Of
Shivajicolony, Police Station-Khazanchi Hat, District-Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Dhar Jha-Advocate

For the Respondent/s : Mr. Rajesh Kr. Verma- SC-27

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

12 01-12-2015

Heard learned counsel for the petitioner as well as
learned counsel for the respondents including the learned AC to
SC-27.

On behalf of respondent no.7, Title Suit No.155 of
2000 was drawn up against the petitioner and others for
declaration as well as confirmation of right, title, interest and
possession over the disputed land wherein, as alleged, though
petitioner had not appeared, she has been impersonated and a
forged vakalatnama has been filed on her behalf followed with

compromise petition whereupon the matter was referred to Lok Adalat where it was accepted and the Title Suit No.155 of 2000 was disposed of in terms thereof.

Learned counsel for the petitioner submitted that because of the fact that whole situation was commanded by the respondent nos.7 and 8 surreptitiously on account thereof, neither there was execution of notice nor petitioner had appeared nay she had executed vakalatnama as well as put her signature over the compromise petition. Therefore, delay has been caused in filing instant petition. He has further relied upon a case reported in 2013(4) P.L.J.R. Page-379 (Ramdeo Bhagat and another v. State of Bihar & another) to substantiate his plea wherein after revoking the award, the parties were left to have dispute duly redressed through the Civil Court by having duly constituted suit.

The learned counsel representing the respondents has submitted that there happens to be inordinate delay in filing instant petition which has not been properly explained. That being so, is fit to be dismissed.

Because of the fact that there happens to be consistent averment at the end of the petitioner that fraud has been played while meeting with the aforesaid eventualities, which has been replied under Paragraph-24 of the counter-affidavit. A plea

has been taken in the aforesaid paragraph “There is no indication that the fraud has been committed jointly by this respondent no.7 too, so the paragraph under reply is imaginary and not admitted by the respondents”. By having the Title Suit at his end, ultimately he happens to be the beneficiary on account of the so alleged fraud and as such, Paragraph-24 of the counter-affidavit is not at all found irruptive. A subsequent counter affidavit has also been filed whereunder legal proposition has been raised paving away to filing of substantive civil suit for annulling a decree on account of fraud.

Taking into account the view expressed in Ramdeo Bhagat & another v. State of Bihar & another reported in 2013 (4) P.L.J.R. Page-379, the award dated 24.06.2000 relating to Title Suit No.155 of 2000 passed by the Lok Adalat, Purnia is hereby set aside. Petition is allowed. However, the parties are left open to have their grievances redressed by instituting proper framed suit.

(Aditya Kumar Trivedi, J)

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