

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15975 of 2012

1. Sunaina Ray Wife Of Ram Pravesh Ray Resident Of Village- Gara,
Police Station- Kuchhila, District- Kaimur
2. Vimla Ray Wife Of Praduman Ray Resident Of Village- Gara, Police
Station- Kuchhila, District- Kaimur

.... .. Petitioner/s

Versus

1. Kishore Kunal Krishna Nand Mishra Son Of Alakh Ray Resident Of
Village And Post- Gara, Police Station- Kuchhila District- Kaimur

.... .. Respondent/s

Appearance :

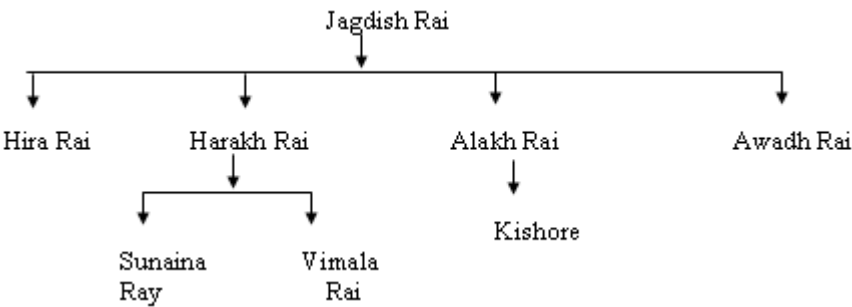
For the Petitioner/s : Mr. K.N. Choubey, Sr. Advocate
Mr. Ambuj Nayan Choubey, Advocate
Mr. Ashok Kr. Garg, Advocate
Mr. Dineshwar Pandey, Advocate
Mr. Yogendra Kr. Dwivedi, Advocate

For the Respondent/s : Mr. Bindhyachal Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 09-12-2015 Heard learned counsel for the petitioners as well as
learned counsel for the respondent.

2. For better appreciation of lis a genealogical table is
furnished hereinbelow:-



3. There was one Jagdish Ray who left for heaven leaving
behind four sons, namely, Hira Ray, Harakh Ray, Alakh Ray and
Awadh Ray. Petitioners are daughters of Harakh Ray while

respondent is son of Harakh Ray.

4. Respondent impleading wife of Harakh Ray, that means to say, mother of these two petitioners, namely, Sunaina Ray and Vimla Ray, the only female heirs of Harakh filed a petition before permanent Lok Adalat, Sasaram at Rohtas under the banner of pre litigation stage whereupon Case No. 692/2004 was registered and on the same day, mother of these two petitioners, namely, Iterwas Kuer put her appearance, entered into compromise which was accepted and in terms thereof, award was prepared. Petitioners after coming to know about the aforesaid eventualities having performed by respondent under the banner of fraud filed petition for review and being dismount, approached this Court under CWJC No. 11339/2010 which was allowed vide order dated 04.05.2011 by having the award setting aside and remitted the matter.

5. While remitting the matter the Court observed in the following way:-

“The Court is directed to deal with the issue on I impersonification in order to find out as to fraud has been played on Court or not. The application of recall was decided a fresh in the light of the observation made above”.

6. Accordingly, the matter sailed to permanent Lok Adalat, Sasaram at Rohtas and by the order impugned dated



11.05.2012, the Lok Adalat dismissed the Misc. Petition filed on behalf of petitioner with an observation that petitioner, if so desire, may challenge the order, an award of Lok Adalat before the competent Court or before Civil Courts relying upon the observation made under CWJC No. 22486/2011.

7. While assailing the order impugned, it has been submitted on behalf of petitioners that Lok Adalat should have acted according to specific direction given by this Court under CWJC No. 11339/2010 (Annexure-3) and consequent thereupon, should not have allowed itself to deflect therefrom.

8. In an alternative, it has also been submitted that activities as well as irresponsible, casual manner of entertaining a petition by a permanent Lok Adalat and disposing of important matters in a haphazard manner have been the cause of concern and on account thereof, times without number the matter has been adjudicated upon and whereunder certain guidelines have been prescribed. Learned counsel for the petitioners placed an order dated 16.01.2014 passed in LPA No. 233/2013 arising out of CWJC No. 2492/2004 whereunder the award of the Lok Adalat was cancelled and during course thereof, the earlier order passed in LPA No. 1923/2009 has also been taken into consideration, more particularly, regarding the direction, “ *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, specially the property disputes. Violation of this direction will be treated as contempt of this Court”.

9. Needless to say, the present controversy is of the year 2004 much prior to the aforesaid eventualities. Accordingly, it has been submitted on behalf of petitioners that the finding recorded by the learned Lok Adalat happens to be in contravention of Annexure-3 and that being so, is fit to be set aside.

10. On the other hand, learned counsel for the respondent submitted that the order passed by the permanent Lok Adalat, the order impugned is in accordance with law. It has further been submitted that CWJC No. 22486/2011, whereupon reliance has been placed by the permanent Lok Adalat, was disposed of on 04.01.2012 and the writ court had relied upon the judgment of CWJC No. 14426/2009 which was decided on 06.11.2009 by a Division Bench whereby and whereunder the parties have been allowed to challenge the award before the Civil Courts on the basis of fraud along with other grounds having passed by permanent Lok Adalat.

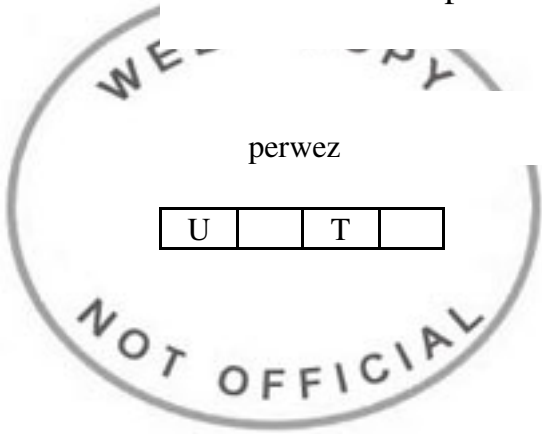
11. The aforesaid decision passed in 14426/2009 has



not been considered or referred in LPA No. 233/2013 and further as no order of LPA No. 1923/2009 has been placed, on account thereof, reference of aforesaid judgment is found not duly explained. It has further been submitted that Partition Suit No. 46/2011 has been filed by the petitioners before the competent Civil Courts and a copy of plaint has been filed though not supported with an affidavit, as has been objected to on that very score by the learned counsel for the petitioners but, not controverted.

12. Certainly, when the matter is remanded with a specific direction, the learned lower court has to proceed with the trial accordingly. After going through the order impugned, it is evident that there happens to be violation of the direction of this Court passed under Annexure-3 at the end of permanent Lok Adalat whereupon the order impugned happens to be liable for setting aside and in that case, the matter would again be directed for reconsideration. However, as the petitioners have already approached before the Civil Courts by way of filing a Partition Suit bearing no. 461/2011, on account thereof, to have a safeguard upon the interest of the petitioners, the aforesaid Partition Suit is directed to be immune from any kind of adverse impact of the order impugned.

13. With the aforesaid observation, the instant petition stands disposed of.



(Aditya Kumar Trivedi, J)