

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8631 of 2012

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1. Rajendra Prasad, son of Late Uma Shankar Prasad Gupta Resident of Village
Stuarganj Mohania P.S. Mohania District Kaimur At Bhabua

.... Petitioner/s

Versus

1. Mahendra Prasad Gupta, son of Late Uma Shankar Prasad Gupta Resident of
Village Stuarganj Mohania P.S. Mohania District Kaimur At Bhabhua

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arabind Nath Pandey-Advocate

For the Respondent/s : Mr. Rajani Kant Pandey-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

04 01-12-2015 Heard learned counsel for the petitioner as well as

learned counsel for the respondent.

Petitioner has challenged the order dated
18.01.2012 passed by Permanent Lok Adalat in Misc. Case No.08
of 2011.

It appears that one Title (Partition) Suit No.409 of
2008 was filed by the petitioner for partition of the properties so
detailed under Schedule claiming half share therein wherein, it has
been pleaded that compromise petition was filed and on the basis
thereof, same was disposed of on 03.02.2010 by the Permanent
Lok Adalat. Subsequently thereof, as is evident, a prayer was
made on behalf of respondent to scrap the same on account of
fraud whereupon Misc. Case No.08 of 2011 has been instituted. It



has also been contended that after appearance of the petitioner, a plea was raised challenging the jurisdiction and the same was rejected by the Permanent Lok Adalat vide order dated 15.09.2011 against which C.W.J.C. No.22330 of 2011 was filed wherein stay was granted. However, coming to know about the same, the order impugned has been passed ante-dated. So, submitted that in the facts and circumstances of the case, the order impugned is fit to be set aside.

The learned counsel for the respondent has opposed the prayer and submitted that as the fraud was played at an earlier occasion, therefore, Permanent Lok Adalat happens to be very much competent to recall its earlier order.

Review is to be exercised by the Court only after having vested with the aforesaid power. Certainly, Legal Services Authority Act neither dealt with the power in a way to inherent jurisdiction nor having vested with power of review. Therefore, instead of proceeding ahead, should have directed the parties to have a declaration from a Civil Court of competent jurisdiction under duly framed suit instead of drawing Miscellaneous Case and further, annulling the order by recalling the same by the order impugned. The aforesaid view is further found fortified by a decision in Kanti Devi v. State of Bihar and others reported in 2012 (2) P.L.J.R. 184.

As such, the order dated 18.01.2012 passed by the Permanent Lok Adalat in Misc. Case No.08 of 2011 is hereby set aside. Petition is allowed. However, the matter is kept open for the parties to have their grievances redressed through properly framed suit.

(Aditya Kumar Trivedi, J)

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