

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18051 of 2012

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1. Sushil Kumar Thakur S/O Late Bindeshwar Prasad Thakur Resident Of Village- Kamtaul, P.S- Kamtaul, Distt- Darbhanga.

.... Petitioner/s

Versus

1. The District And Sessions Judge- Cum- Chairman, District- Legal Services, Authority, Darbhanga.
2. The Presiding Officer, Permanent Lok Adalat, Darbhanga.
3. The Member Secretary, Bihar State Legal Service Authority Budh Marg, Patna.
4. Law Secretary, Bihar, Patna.
5. Geeta Devi W/O Sri Mahendra Thakur And D/O Late Bindeshwar Prasad Thakur Permanent Resident Of Village & P.S- Madhwapur, District- Madhubani At Present Village & P.O- Kamtaul, P.S- Kamtaul, District- Darbhanga.
6. Shakuntala Devi W/O Late Pramod Kumar Thakur Resident Of Village & P.O- Morwa Bazaar, P.S- Tajpur, District- Samastpur.
7. Sanjay Kumar Thakur S/O Late Pramod Kumar Thakur Resident Of Village & P.O- Morwa Bazaar, P.S- Tajpur, District- Samastpur.
8. Rajesh Kumar Thakur S/O Late Pramod Kumar Thakur Resident Of Village & P.O- Morwa Bazaar, P.S- Tajpur, District- Samastpur.
9. Sudhir Kumar Thakur S/O Late Bindeshwar Prasad Thakur Resident Of Villge & P.O- Kamtaul,. P.S- Kamtaul, District- Darbhanga.
10. Nirmala Devi W/O Udai Shanker Thakur And D/O Late Bindeshwar Prasad Thakur Resident Of Village & P.O- Nayee Bazaar, District- Muzaffrpur.
11. Jeev Narayan Thakur S/O Late Jharilal Thakur Resident Of Village And P.O- Madhubani, Maharajganj, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh -Advocate Mr. Ajay Kumar Tiwary –Advocate Mr. Apurv Harsh -Advocate
For the Respondents 1 to 4:		Mr. Ajay Bihari Sinha SC-19 Mrs. Kalpana, -Advocate
For the respondents no.5	:	Mr. Shiv Shankar Sharma, -Advocate Mr. Kuwar Digvijay Singh, -Advocate
For the Respondent No. 10:		Mr. Vikash Mahesh, -Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

7 17-12-2015

Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

2. The present petition happens to be a glaring
example of irresponsible conduct of Lok Adalat where people rush

for permanent settlement either under pre-litigation stage or post-litigation stage, having referred to in terms of Section 89 of the C.P.C. in case there happens to be prospect of settlement.

3. Geeta Devi, Respondent No.5 daughter of Bindeshwar Prasad Thakur had filed a petition asking for identification of her 1/7th share in the property left by the deceased father, Bindeshwar Prasad Thakur who died leaving behind three sons and three daughters in the year 1972, before Bihar State Legal Services Authorities wherefrom the application was transmitted to District Legal Services Authority, Darbhanga and, accordingly, placed before Lok Adalat, Darbhanga on the basis of which pre-litigation case No. 89/2008 was drawn up.

4. The most surprising feature of the aforesaid application is that she had not claimed that the case has been compromised or there happens to be prospect of amicable settlement, rather it speaks that after partition of the land, other heirs sold away their shares and left the place while she is running pillar to post for getting her name mutated before Anchal Shrista, and further elaborated the same by subsequent filing of petition dated 23.07.2008 (Annexure-5) in detailed manner whereupon the Lok Adalat, Darbhanga vide its order dated 15.10.2008 had held:-

“Thus after hearing we find that claim of the petitioner is genuine. The petitioner is entitled to her share as claimed in the petition. Let an award be prepared. The petition dated 23.07.2008 shall form part of the award.”

And accordingly, award has been prepared on 22.10.2008. However, no step was taken by the Lok Adalat to testify the assertion of the Geeta Devi nor cared to notice the other co-sharers to find out genuineness of pleading. Subsequently thereof, as has been stated, after coming to know about the aforesaid misfortune, Miscellaneous Case No. 90/2010 was filed by the petitioner, one of the brothers of Geeta Devi and unfortunately, the Lok Adalat, Darbhanga rejected his petition vide order dated 13.06.2012 which was filed on the ground of forgery as well as incompetency of the jurisdiction.

5. After hearing the respective learned respective counsel as well as after going through the order, award impugned, it is evident that certainly, Lok Adalat, Darbhanga had transgressed its jurisdictional avenue and on account thereof, does not justify the order as well as award impugned, and are, accordingly, set aside.

6. Petition is allowed.

(Aditya Kumar Trivedi, J)

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