

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No. 7250 of 2014 (O&M)
Date of decision: 20.11.2015**

Jagir Singh

... Petitioner

versus

Shama

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Parminder Singh, Advocate for the petitioner.

Mr. Ravinder S. Budhwar, Advocate for the respondents. `

K.Kannan, J.

The revision petition is by the defendant. He contested the suit filed by his sister who alleged that this defendant had played fraud on the permanent Lok Adalat by purporting to serve notice on her but brought a person who was not the plaintiff to the Lok Adalat and secured a statement admitting to the defendant's claim. The suit was rested on a plea that the defendant had practiced impersonation and fraudulently obtained the order which was null and void. The plaintiff's suit was, therefore to declare that the order obtained by the defendant was by practice of fraud and impersonation. The defendant had filed the written statement and the trial had gone through and at the time of arguments the defendant filed an objection for rejection of the plaint under Order 7 Rule 11. On the basis that in terms of the Section 22 (C) (4), the order of the permanent Lok Adalat is final between the parties and no Civil Court shall have jurisdiction to assail the same.

The petition for rejection of plaint was dismissed and the counsel reiterates the objection taken by reference to Section 22 (C) (4). The counsel relies on the judgment of the Division Bench of the Kerala High Court in Ambika Kumary Vs. State of Kerala, 2012 (1) RCR (Civil) 798, that held that the permanent Lok Adalat has power

similar to the Civil Court and once the jurisdiction is invoked, no other Court can exercise jurisdiction over the matter. The Court held that only remedy available against the award passed will be the writ remedy under Articles 226 and 227. The writ remedy under Article 226, however, wide as it is, always beset with limitations of not making possible oral evidence of parties. If judicial intervention was possible to unravel a fraud alleged to have been perpetrated, then the most efficacious remedy where oral evidence was also required to be given would be only by means of civil suit and not, a writ petition. That is the manner in which the Division Bench of the Kerala High Court ought to be understood.

The bar which the law contemplates is what will operate against parties if the proceedings had been taken as per law. If a person says that she had not been served as such and the defendant had practiced impersonation, the order so obtained cannot be an order in the eye of law to which the provision could apply. Fraud vitiates the whole of the judicial proceedings and if the plaintiff is able to show that she was not present before the Lok Adalat, the defendant is bound to prove that the plaintiff was present and the person who admitted to the defendant's claim, was indeed a plaintiff herself and the signatures found in the document produced in the Lok Adalat were hers. The defendant will have to take, therefore, a heavy burden cast on him to prove that there was no impersonation. The suit is properly laid and the rejection of the plaint sought was rightly dismissed.

There is a further reason why the petitioner could not have the benefit of rejection of the plaint. The petition for rejection itself has been moved after the conclusion of the plaintiff's evidence and when it was the turn of the defendant to examine himself and when he was even cross-examined. The application for rejection was surely not bona fide.

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The impugned order is maintained and the civil revision petition is dismissed with the costs of Rs. 3,000/- against the petitioner.

(K.KANNAN)
JUDGE

20.11.2015

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