

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

**CR No.825 of 2015
Date of Decision:06.02.2015**

Harbhajan

. . . . Petitioner

Vs.

Kishan Lal (deceased) through his LRs and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.S.K. Tripathi, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The defendant is aggrieved against the order dated 12.1.2015, dismissing his application filed under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908 [for short 'the Act'] for rejection of the plaint.

In short, the defendant has an award in his favour passed by the Lok Adalat on the basis of compromise Ex.C1 against Harparshad s/o Khajan Singh. The other siblings of Khajan Singh filed a suit for declaration alleging that Harparshad was the co-owner to the extent of 1/4th share of the property in dispute. He was unmarried, deaf and dumb. The present petitioner is a shrewd and cunning person, who fraudulently taken an advantage of his physical condition, procured the award on 20.12.2008 in Civil suit No.467 dated 1.10.2008 titled as "Harbhajan Vs. Harparshad". The said award was thus challenged on the ground of fraud.

In the application filed under Order 7 Rule 11(d) of the CPC, the petitioner has alleged that the suit cannot continue and the plaint has to be rejected because the remedy lies, if any, with the plaintiff by way of invoking extraordinary jurisdiction of this Court under Article 226/227 of the Constitution of India. In respect of his submission, he has relied upon a decision of the Supreme Court rendered in "*State of Punjab and another Vs. Jalour Singh and others*" 2008(1) Civil Court Cases 591 (SC).

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that there is no error in the order of the Court below because the judgment relied upon by him on the issue that if there is an award of the Lok Adalat, having been passed under the Legal Services Authority Act, 1987, it would bind the parties to the award and as such the said award is not appealable and could be challenged only by way of invoking extraordinary jurisdiction of this Court.

However, in the present case, the suit has been filed by the 3rd party to challenge the award, which has attained the shape of a decree, as the award of the Lok Adalat is executable. It is well settled that the 3rd party can always challenge the decree by way of civil suit if the said decree is obtained by fraud in which his right, title or interest has been effected.

Accordingly, there is no error committed by the Court below while dismissing the application.

Dismissed.

06.02.2015

Vivek

(RAKESH KUMAR JAIN)
JUDGE