

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.37 of 2016**

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Dr. Onkar Prasad Singh

.... Appellant/s

Versus

Dr. Sudhir Prasad Singh

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bishwanath Prasad Singh

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**
ORAL ORDER

2 16-05-2016 1. Heard the learned counsel, Mr. Bishwanath Prasad Singh,
for the petitioner.

2. It appears that Title Suit No.145 of 2007 was filed by the respondent for partition of the suit property against the present petitioner who is own brother. The suit was referred to Lok Adalat constituted under Section 19 of the Legal Service Authority Act, 1987. Before the Lok Adalat, both the brother compromised and compromise Award was passed by the Lok Adalat on 30.08.2008. Thereafter, the respondent filed Execution case No.5 of 2014 for execution of the decree passed by the Lok Adalat. In the execution case, the petitioner filed objection under Section 47 of the Code of Civil Procedure on the ground that the Award passed by the Lok Adalat is not executable and prayed for recall of the order whereby the Pleader commissioner was appointed to execute the decree. The

Court below by the impugned order has rejected the said application.

3. The learned counsel, Mr. Singh, for the petitioner submitted that there is no provision in Legal Service Authority Act that the Award passed by the Lok Adalat constituted under Section 19 of the Legal Service Authority Act shall be executed by the Civil Court. According to the learned counsel, Section 22E provides that the Permanent Lok Adalat constituted under Section 22 of the Legal Service Authority Act has the jurisdiction to transmit the Award to the Civil Court for its execution but so far the Lok Adalat constituted under Section 19 of the Legal Service Authority Act is concerned, no such power has been vested and, therefore, the Award cannot be executed.

4. Perused the order passed by the Court below. Perused the provision as contained in Section 22E of Legal Service Authority Act and also Section 19 read with Section 21 of the Legal Service Authority Act.

5. It may be mentioned here that in Bihar still today no permanent Lok Adlat has been constituted under Section 22 of the Legal Service Authority Act. The provision as contained in Section 22E is with respect to the Permanent Lok Adalat constituted under Section 22. Since the Permanent Lok Adalats constituted under Section 22 have been given the power to decide the lis between the

parties on evidence in addition to their conciliatory function, the power has been conferred on the Permanent Lok Adalat to transmit the Award to the Civil Court for its execution whereas the Lok Adalat constituted under Section 19 have got only conciliatory jurisdiction. These Lok Adalats have no adjudicatory function and they cannot decide any lis. In such circumstances, the Lok Adalats have not been given any power to transmit the Award. However, in view of Section 21, the Award passed by the Lok Adalat constituted under Section 19 is to be treated as a decree of Civil Court. Therefore once the Award is treated as a decree, the appellants, who wants to execute the same, has to apply by filing execution case before the Civil Court and in the present case, the application has been filed for execution of the deemed decree, i.e., the Award passed by the Lok Adalat. In such circumstances, I do not find any reason to interfere with the impugned order and the Court below has rightly rejected the objection filed under Section 47 of the Code of Civil Procedure.

6. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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