

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15369 of 2011

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1. Javed Anwar S/O Late Abdul Hamid R/O Mohalla- Barah Pathar, P.S.-
Dehri, District- Rohtas

2. Shaukat Ali S/O Late Abdul Hamid R/O Mohalla- Barah Pathar, P.S.-
Dehri, District- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar

2. The Chairman, Permanent Lok Adalat, Sasaram

3. Md. Hassim Moazzam S/o Prawej Akhtar R/O Mohalla- Barah Pathar,
P.S.- Dehri, District- Rohtas

4. Prawej Akhtar S/O Late Abdul Hamid R/O Mohalla- Barah Pathar, P.S.-
Dehri, District- Rohtas

5. The Law Secretary, Bihar, Patna

.... Respondent/s

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Appearance:

For the Petitioner : Mr. Ajay Kumar Tiwari

For the State : Mr. Prasoon Sinha GA2

For the respondents : Mr. Khurshid Alam, Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 19-02-2016 Heard both sides.

As prayed by the petitioners, let correction in the
name of the petitioner no.1 be made in course of the day.

The petitioners who are sons of late Abdul Hamid
have filed the writ application for setting aside the award passed
by the Lok Adalat , Sasaram in Pre litigation Title suit no. 109
(D)/2010. Also under challenge is the order dated 28.3.2011
passed by the Lok Adalat in Misc. case no. 5(M) of 2010
whereby the application for recall/ review of the award filed by the

petitioners was rejected as not maintainable .

The respondents filed a pre-litigation case no. 109(D)/2010 before the permanent Lok Adalat, Rohtas, Sasaram impleading Abdul Hamid (father of respondent no.4 and grand father of respondent no.3). stating that the subject building/property was orally gifted by Abdul Hamid in favour of his grand son, namely Mohammad Hasim Mowajam and the donee was put in possession . On notice, Abdul Hamid appeared and settlement was reached between them resulting in filing of a compromise in which Abdul Hamid accepted the case of the plaintiffs- petitioners. The permanent Lok Adalat considering the agreement reached between the parties passed an award in the light of the compromise. In the penultimate line of the order, it was clarified that the award shall bind only the parties to the litigation and not any other person/claimant.

Before filing application for review/recall of the award the petitioners filed Title (partition) suit no. 374 of 2010 seeking partition in the property pleading that the father had orally gifted part of the subject building/property in favour of the plaintiffs. A prayer was made to earmark the property and to further declare that the same is the property of the plaintiffs by virtue of oral Hibba/gift. The Counsel for the petitioners submits

that the Lok Adalat illegally exercised the jurisdiction. He has relied in this regard on Section 22(C) of the Legal Services Authority Act, 1987 (for short 'the Act').

Mr. Alam, conversely submitted that indisputably the petitioners are not parties to the award . The Lok Adalat has specifically clarified in the award that the same shall bind only the parties and not any other person or claimant of the property. Actually no prejudice much less serious prejudice is caused to the petitioners who have already filed Title (Partition) suit. He further highlights that the writ petitioners did not implead their father through whom they claimed the part of the subject property/building although he was alive as also the other family members of the petitioners as well as the private respondent. This was, in fact, a malafide act on the part of the writ petitioners.

I have considered the submissions of the parties. I do not find from the provisions contained in Section 22(c) of the Act that Lok Adalat lacked any jurisdiction in the matter . It provides for filing a pre litigation case before the Lok Adalat whereafter the Lok Adalat has to consider whether there is any demand of /compromise/conciliation between the parties. If the parties files such agreement/compromise the award is to be passed which, of course, shall bind only the parties to the award and none else. As

an abundant precaution, the Lok Adalat, in the in the impugned award, has noted that the same shall bind only the parties and no other person/claimant. It further appears that the petitioners have already filed a suit for partition in respect of the subject property. Naturally, the defendants of the suit cannot rely on the award as a relevant material to contest the suit. Seen thus, no prejudice is caused to the petitioners. This is another reason which persuade this Court not to invoke the writ jurisdiction in the case.

In the circumstances, the writ application is found devoid of merit . It is, accordingly dismissed.

(Kishore Kumar Mandal, J)

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