

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17564 of 2011

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1. Bhikhari Pandey Late. Ramgati Pandey Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua.

.... Petitioner/s

Versus

1. Ram Lal Paswan Bajrangi Paswan Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

2. Babloo Paswan (Minor) Ram Lal Paswan Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

3. Chotu Paswan (Minor) Ram Lal Paswan Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

4. Chandan Paswan (Minor) Ram Lal Paswan Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

5. Deonarayan Pandey Bhikhari Pandey Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

6. Vinod Pandey Bhakhari Pandey Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

7. Sonu Pandey Deo Narayan Pandey(Minor) Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

8. Prince Pandey (Minor) son of Vinod Pandey, next friend and guardian of Vinod Pandey, R/O Jagdishpur, P.S. Bhagwanpur, Distt. Kaimur At Bhabua

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

18 18-03-2016 Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. Petitioner is aggrieved by an order dated 26.04.2011 passed by Permanent Lok Adalat, Bhabhua in Miscellaneous Case No. 31/2006 whereby and whereunder the compromise dated 15.10.2001 and award dated 06.04.2002 relating to Title Suit No. 238/2001(Ram Lal Paswan v. Bhikari Pandey) has been set aside with a further direction to the parties to appear before the original

court of Munsif, Bhabhua in order to contest the Title Suit No. 238/2001.

3. The aforesaid Title Suit was disposed of on the basis of compromise having effected amongst the parties before the court concerned as well as having been accepted by the Lok Adalat by way of preparation of award on being transmission of record by the court concerned.

4. Then thereafter, consumption of long duration, Miscellaneous Case No. 31/2006 has been drawn up on behalf of respondents/applicants asking for setting aside of award dated 06.04.2002 on the grounds so enumerated therein whereupon petitioner/Opposite Party was noticed and after his appearance, the Lok Adalat proceeded with full-fledged trial after framing issues, examining the witnesses and subsequently thereof, by the order impugned set aside the compromise dated 15.10.2001 as well as award dated 06.04.2002 relating to Title Suit No. 238/2001, simultaneously, directed the parties to be present before the original court to proceed with the Title Suit No. 238/2001, subject matter of instant petition.

5. Learned counsel for the petitioner has submitted that Lok Adalat had transgressed its limit by way of entertaining the petition for setting aside the award which, already been passed by



the Lok Adalat on the basis of compromise having entered by the parties before the competent court relating to a Title Suit which was pending since before and further, the action of the Lok Adalat whereby and whereunder conducted the trial like Civil Courts and then set aside the award which, virtually, tantamounts to review which the Lok Adalat lacks.

6. It has also been submitted that had the respondents any sort of grievance relating to award dated 06.04.2002, an option was available before him to challenge the same before the competent court as has been held by Division Bench of this Court in the case of *Meena Choudhary & Ors v. Dr. Dilip Choudhary & Ors* passed in CWJC No. 14426/2009.

7. Apart from this, it has also been submitted that as held by this Court at an earlier occasion in the case of *Kanti Devi v. State of Bihar reported in 2012(2) PLJR 184*, the Lok Adalat lacks the jurisdiction to review its own award and on account thereof, the order impugned passed by the permanent Lok Adalat, Bhabhua is bad, illegal, contrary to spirit of law and is, accordingly, fit to be set aside.

8. Learned counsel for the respondents while controverting the submissions made on behalf of petitioner, has supported the finding recorded by the Lok Adalat. It has been



submitted by the learned counsel for the respondents that fraud vitiates the findings recorded by a court at any stage of the trial as well as the order or judgment based upon fraud is a nullity in the eye of law. Because of the fact that compromise dated 15.10.2001 filed in Title Suit No. 238/2001 has been obtained by means of fraud and on account thereof, the award dated 06.04.2002 based thereupon is found duly influenced by the act of fraud and so, the Lok Adalat was quite competent to annul the same which, the Lok Adalat cared by the order impugned. As such the order impugned does not require interference.

9. On account of ignorance regarding exercise of power by the Lok Adalat, though, happens to be presided by a retired judicial officer, has confused the situation whereupon majority of the award having been prepared at their end and subsequent orders relating thereto, are subject to adjudication before this Court and times without number, this Court has enlightened them on that very score. Unfortunately, the breve gone unresponded leading to entrammel situation. Furthermore, from the action of the Lok Adalat, it is apparent that they are not at all convinced to accept that there happens to be two distinct identities, the permanent Lok Adalat as well as Lok Adalat. Permanent Lok Adalat, as is evident from Section 22 (a) of the Act relates to its

constitution in terms of Section 22(b) and further, has been notified to exercise the jurisdiction relating to public utility services and fell under Chapter-6A of the Legal Services Authority Act 1987.

10. Public utility services have been identified under Sub-clause-b of Section 22A. The remaining exercise is to be conducted by the Lok Adalat falling under Chapter-6 of the Act. Section 22 thereof, identifies the power to be exercised by the Lok Adalat. After cursory perusal thereof, it is evident that neither inherent power in terms of Section 151 nor the power of review in terms of Section 114 read with Order 47 is there. That being so, Lok Adalat is found deficient on that very score and that happens to be the reason behind that in CWJC No. 14426/2009 (*Meena Choudhary v. Dr. Dilip Choudhary*), the Division Bench has held that in case parties are so aggrieved by the award of the Lok Adalat and as the power of the Lok Adalat are not found co-extensive with that of Civil Court, in the aforesaid background, should take recourse for annulling the same by drawing a properly framed suit. Therefore, though the respondents had prayed for annulling the award dated 06.04.2002 on the ground of fraud, the same would not have been entertained by the Lok Adalat and instead thereof, ought to have directed the respondents to



challenge the same under properly framed suit by a competent court. Furthermore, as held in *Meena Choudhary's case (supra)* and further from perusal of Section 22 of the Act, the contentious issue goes out of jurisdiction of the Lok Adalat. The presence of respective parties under Miscellaneous Case and further, having their version, counter version, indulging in long battle by producing/exhibiting series of documents, examining of witnesses, again speaks with regard to indolence of the Lok Adalat because of the fact that in terms of Section 19(5) of the Act, the Lok Adalat is to determine and to arrive at over a compromise or settlement having effected amongst the parties. Therefore, while entertaining the petition and registering it as Miscellaneous Case No. 31/2006 and dealing with the contentious issue like Civil Court wherein, concluded by way of setting aside the compromise dated 15.10.2001 and award dated 06.04.2002 relating to Title Suit No. 238/2001 happens to be beyond its jurisdiction.

11. Apart from this, it is crystal clear that compromise dated 15.10.2001 was filed before competent court where Title Suit No. 238/2001 was pending. On the basis of aforesaid compromise, the matter was referred to Lok Adalat by the court concerned. In that event, the Lok Adalat by the order impugned would not have pounced upon the compromise dated 15.10.2001

in the background of the fact that the aforesaid event was in accordance with Order 23 of the CPC.

12. Taking into account the earlier relevant judicial pronouncements having on this score, in the case of ***Kanti Devi v. State of Bihar*** reported in ***2012(2) PLJR 184***, it has been held as follows:-

19. In view of my above discussion, I find that the Permanent Lok Adalat constituted under Section 19 of the Legal Services Authority Act, 1987 has exceeded its jurisdiction and tried the issues i.e. adjudicated upon the dispute raised by the respondents regarding fraud and decided the matter as if the Permanent Lok Adalat is civil court. In my opinion, the Permanent Lok Adalat constituted under Section 19 of the Act has no jurisdiction to adjudicate upon a *lis*. Here, the dispute between the parties is regarding whether any fraud was committed or not. So far this dispute is concerned, the Permanent Lok Adalat has no jurisdiction to decide the same as has been held by the Division Bench of this Court referred to above. The Division Bench also held that the Permanent Lok Adalat has no inherent jurisdiction under Section 151 C.P.C.

13. Consequent thereupon, the order impugned is set aside. Petition is allowed.

14. However, parties are at liberty to take proper recourse for redressal of their grievances in accordance with law.

(Aditya Kumar Trivedi, J)

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