

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10325 of 2014

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Gauri Shankar Prasad & Anr

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navin Sharma

For the Respondent/s : Mr. Aag3-Roy Shivajee Nath

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 26-02-2016 Heard the learned counsel, Mr. Sunil Kumar for the
petitioner and learned A.A.G.3 for the State-respondents.

The petitioner has filed this application under Article 227 of the Constitution of India for setting aside the award dated 23.11.2013 passed by the National Lok Adalat, Jehanabad in Pre-litigation Application Case No.16 of 2013 whereby the pre-litigation case was disposed of on the basis of compromise filed between the parties to the said pre-litigation case.

According to the petitioner, the petitioner is the real owner of the property but without making him party to the pre-litigation case, collusively the award was obtained from the Lok Adalat by the respondent Nos.4 and 5.

In the writ application under Article 227, the petitioner has given/narrated the bundle of facts entitling him to the relief for declaration that he is title holder of the property. However, this

Court while exercising supervisory jurisdiction cannot record any finding without there being any evidence on the basis of pleading i.e. the writ application itself as this Court is not exercising original jurisdiction.

A Division Bench of this Court in the case of Meena Choudhary vs. Dr. Dilip Choudhary in CWJC No.14426 of 2009 disposed of on 06.11.2009 has held that the petitioners will be entitled to invoke plenary jurisdiction of civil court to claim necessary relief on the ground of fraud or any other grounds available to the petitioner.

It appears that in similar situation, in that case, the petitioner of the said writ application challenged the award of the Lok Adalat alleging that he was not made party. The Division Bench held that if a person was not party before Lok Adalat, proceeding will not be binding on him and any order passed therein shall also not bind him as award of Lok Adalat does not mean any independent verdict or opinion arrived at by any decision making process. Making of award is merely an administrative act of incorporating the terms of compromise in the form of an executable order under the seal of Lok Adalat.

This Court again in L.P.A. No.233 of 2013 disposed of on 16.01.2014 has held that prior to passing award, the Lok Adalat

is required to satisfy itself with regard to the identity of the parties present before it at the time for pronouncement of award as also required by Rule 17 of the NALSA Regulations, 2009. In the present case, there is no dispute about the identity of the parties to the pre-litigation case before the Lok Adalat.

In view of the above facts and circumstances of the case, if at all the petitioner has got any right, title, interest or possession over the suit property, he is at liberty to move before appropriate forum by initiating appropriate proceeding. The award of the Lok Adalat will not be binding on him as he is not party to the said case or the award.

Thus, this writ application is disposed of with the aforesaid observations.

(Mungeshwar Sahoo, J)

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