

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6852 of 2014

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Raj Kishore Singh

.... Petitioner/s

Versus

Arjun Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kalyan Shankar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 16-02-2016

Heard the learned counsel, Mr. Kalyan Shankar on
behalf of the petitioner.

This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the award passed by the Mega Lok Adalat on 16.12.2012 in Partition Suit No.30 of 2012 and also the decree prepared on the basis of this award.

Admittedly, the petitioner was not party to the aforesaid partition suit. According to the petitioner, the sons of Khiru Singh got all the properties partitioned between them in the aforesaid partition suit before the Lok Adalat without making the petitioner as party-defendant in the partition suit and also without making the descendants of Moti Singh and Gowardhan Singh as party. According to the petitioner, the suit property i.e. the subject matter of title suit was the joint family property of three brothers i.e.

Khiru, Moti and Gowardhan although it was settled in the name of only one of the brothers, Khiru.

So far this case made out by the petitioner is concerned, this matter relates to the question of fact and dependent on the evidence, therefore, in exercise of supervisory jurisdiction, this Court cannot record any such finding. If at all the petitioners have got any right, title and interest in the property, the petitioner may initiate appropriate proceeding before appropriate forum.

So far the challenge to the award passed by the Mega Lok Adalat is concerned, it may be mentioned here that this matter is covered by the decision of this Court in the case of Kanti Devi v. State of Bihar, 2012(2) PLJR 184.

The learned counsel for the petitioner relied upon a decision of this Court in the case of Kumari Sushmita & Ors. v. Rabindra Kumar Singh & Ors., 2014(2) PLJR 622.

From perusal of the said decision, it appears that in that case, the High Court found that the award was obtained by fraud and the existence of second wife and her children was the fact admitted by the parties.

So far the present case is concerned, the petitioner is claiming independent title on the ground that the property was the joint family property. So far this question is concerned, it cannot

be the subject matter of writ application either under Article 226 or under Article 227 of the Constitution.

Therefore, this writ application is dismissed. However, the petitioner may approach the Civil Court by initiating appropriate proceeding.

(Mungeshwar Sahoo, J)

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