

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7360 of 2013

=====

1. LILAWATI DEVI, WIFE OF SRI NIRMAL KUMAR RESIDENT OF LAKHI BHAWAN, MISSION ROAD, DAHIYAWAN, P.O.: - CHAPRA, P.S. : - CHAPRA TOWN, DISTRICT : - SARAN

2. DHARMNATH PRASAD, SON OF LATE RAJESHWAR PRASAD RESIDENT OF SILVER HOUSE, MALAVIYA ROAD, AT AND P.O. AND P.S.: - DEORIA, DISTRICT: - DEORIA (U.P.)

3. ABHAY KUMAR, SON OF LATE RAJESHWAR PRASAD RESIDENT OF SILVER HOUSE, MALAVIYA ROAD, AT AND P.O. AND P.S. : - DEORIA, DISTRICT : - DEORIA (U.P.)

.... PETITIONER/S

VERSUS

1. THE STATE OF BIHAR THROUGH SECRETARY, DEPARTMENT OF LAW, OLD SECRETARIAT, BIHAR, PATNA

2. THE SECRETARY, DISTRICT LEGAL SERVICES AUTHORITY, SARAN AT CHAPRA

3. SATYA NARAYAN PRASAD SON OF LATE RAGHUNATH PRASAD RESIDENT OF MOHALLA: - SAHEBGANJ, FAL GOLA, P.O.: - CHAPRA, P.S.: - CHAPRA TOWN, DISTRICT : - SARAN

.... RESPONDENT/S

Appearance :

For the Petitioner/s : Mr. M. N. Parvat- Sr. Advocate

For the Respondents : Mr. Vindhyachal Singh-Advocate

Mr. Shantanu Kumar-Advocate

Mr. Nishi Nath Ojha-Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

CAV ORDER

Date: 29-04-2016

Petitioners have prayed for quashing of the award dated 01.11.2012 (Annexure-3) passed by the Principal Judge, Permanent Lok Adalat, Saran at Chapra in Pre-litigation Title Suit No.38 of 2012/ 13 of 2012 (Satya Narayan Prasad vs. Lilawati Devi and others) on the basis of so alleged compromise having effected amongst the parties.

2. As has been perceived from rival pleadings, a petition was filed on behalf of respondent, Satya Narayan Prasad with regard to declaration of Schedule-1 Property being his exclusive property, defendants have got no title and interest with regard thereto along with other ancillary reliefs before the Secretary, District Legal



Services Authority, Saran at Chapra whereupon, notices were issued against the petitioners/ defendants in pursuance of guideline so prescribed under L.P.A. No.233 of 2013 (Srinivash Rai vs. Mahendra Rai and others) followed with appearance. After due consultation, the Secretary, District Legal Services Authority perceived theme of compromise whereupon transmitted the record to the Lok Adalat fixing a date 29.10.2012, on which date, both the parties appeared, filed their Identity Card relating to their proper identification, heard and during course thereof, both the parties admitted factum of compromise, consequent thereupon, on 01.11.2012 order was passed in terms thereof, accepting the compromise as well as directing for preparation of award as is evident from Annexure-A of the counter-affidavit. Preparation of the award in terms of compromise petition and identifying the same to be part and partial of the award is the subject matter of instant petition.

3. Learned counsel for the petitioners has submitted that respondents during course of such exercise managed to, succeeded in duping the appellants in getting their signature as well as other relevant documents, who are none else than own sisters and on account thereof, by having the relevant documents in their possession belonging to the petitioners, the respondents succeeded in procuring the order impugned by means of playing fraud. So, submitted that the order impugned followed with award is fit to be quashed.

4. On the other hand, the learned counsel for the



respondents submitted that there happens to be no procedural lapses. The aforesaid event, as is visualizing from Annexure-A, the order sheet that the direction given by this Court under L.P.A. No.233 of 2013 has been followed with at each and every stage whereunder there happens to be presence of petitioners at different occasions. It has also been submitted that apart from presence of petitioners before the Secretary, District Legal Services Authority, Saran at Chapra on 10.10.2012, they have also presence on 29.10.2012 and on such date, they have supported the factum of compromise having arrived amongst the parties. Therefore, it would not be a case of fraud rather it happens to be an example of dubious character of the petitioners who, subsequently developed avarice whereupon filed this petition on false and frivolous grounds. So, submitted that instant petition lacks merit and should be dismissed.

5. It is needless to say that in *State of Punjab & Another v. Jalour Singh & others reported in (2008) 2 SCC 660*, Article 227 of the Constitution of India has been properly identified to be the relevant provision whereunder remedy lies in case, award of a Lok Adalat is being challenged. There may be so many grounds in order to substantiate such plea whereupon the award could be quashed. Some of which, may be entertainable under Article 227 of the Constitution of India while other such as fraud, as it needs thorough investigation, which could not be properly scrutinized while invoking as well as exercising the jurisdiction under Article 227 of the Constitution of

India, therefore, different ways have been enlightened for proper adjudication.

6. Fraud is a theme which could be perceived at any stage of the proceeding and once perceived, would vitiate from solemnity of the proceeding. That happens to be gist of principle laid down by the *Hon'ble Apex Court in Budhia Singh & others vs. Gopi Nath reported in (1999) 4 SCC 396.*

7. In *C.W.J.C. No.14426 of 2009 Meena Choudhary & another vs. Dr. Dilip Choudhary & others*, similar question has arisen wherein it has been found that whenever plea of fraud is being raised while challenging the award of the Lok Adalat, then in that event, as a petition under Article 227 of the Constitution of India is found abstinent to delve the issue, some sort of relaxation has been provided in following way:-

“As discussed and held earlier, powers of Lok Adalat are not co-extensive with that of civil courts who have full power to take evidence including oral evidence and also to exercise necessary powers under Section 151 of the Code of Civil Procedure. In such situation, in our view, nothing in the Code of Civil Procedure or other law can render the petitioners remediless and following the law noticed above in the case of Smt. Anita (supra), we hold that the petitioners will be



entitled to invoke plenary jurisdiction of civil court to claim necessary relief on the ground of fraud or even on the grounds available to petitioner no.1. As a proposition of law it is well established that a person who was not a party to the proceeding, will not be bound by any order passed therein unless he or she was impleaded through a representative like Karta or an authorized agent who may in appropriate situations represent others.

With these observations, this writ petition is disposed of.”

8. Vide order dated 26.09.2012, the first order sheet, it is evident that the matter was placed before the District Legal Services Authority, Saran at Chapra and further, the subsequent order sheet dated 10.10.2012 speaks that the matter was referred to Permanent Lok Adalat. From the order impugned, it is evident that same contains Permanent Lok Adalat, Saran at Chapra. At the present moment, it looks pertinent to testify the identity of two independent forums having constituted under Legal Services Authority Act. The first one happens to be mere a Lok Adalat and the second one, in terms of amended Sections 22(a) to 22(g), Permanent Lok Adalat. Establishment of Permanent Lok Adalat is meant for dealing with essential service while the Lok Adalat happens to be the authority vested with the power to adjudicate upon the lis on the basis of

compromise, settlement otherwise than the essential service, even encompass pre-litigation stage. That being so, one could not find perception of establishment of Permanent Lok Adalat, entrusted with the power to deal with pre-litigation, event otherwise than relating to essential services. Contrary to it, the matter should have been dealt with by the Lok Adalat where the matter was not referred to as is evident from the order dated 10.10.2012 (Annexure-A). That being so, the award has been passed by the authority, which was not at all competent enough to pass the same being deficient in terms of mandate of law.

9. Consequent thereupon, the order impugned coupled with the award is set aside. Petition is allowed.

(Aditya Kumar Trivedi, J)

Vikash/-

AFR/NAFR	AFR
CAV DATE	06.04.2016
Uploading Date	29.04.2016
Transmission Date	NA