

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.270 of 2015

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Wayeda Khatoon

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Parasmani

For the Respondent/s : Mr. R.R. K Pandey

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 29-02-2016

Heard the learned counsel, Mr. Sanjay Parasmani for
the petitioner.

The petitioner has challenged the Award passed by Lok
Adalat dated 22.04.2010 in pre-litigation case No.132 of 2010.

It appears that the petitioner is party to the pre-litigation
case No.132 of 2010. The pre-litigation case was filed before the
Permanent Lok Adalat, Muzaffarpur. Both the parties filed
compromise application and on the basis of compromise, the Lok
Adalat after verification of the identity of the persons by Award
dated 22.04.2010 disposed of the pre-litigation case holding that
the compromise application shall form part of the decree.

The grievance of the petitioner is that the Lok Adalat
has no direct jurisdiction to entertain a declaratory suit and that by
playing fraud on the petitioner, has obtained the Award by the
respondent No.3 who suppressed the material fact. The petitioner

is blind woman. The learned counsel in support of his contention relied upon a decision of this Court reported in 2014(4) PLJR 232.

It may be mentioned here that a Division Bench of this Court in the case of Meena Choudhary v. Dr. Dilip Choudhary in CWJC No.14426 of 2009 disposed of on 06.11.2009 has held that in matters involving fraud, a party cannot be remediless and can always approach Civil Court for appropriate declaration. It has been further held that if fraud has been played upon the court, in that event the court can also look into the matter in exercise of inherent powers under Section 151 of the Code of Civil Procedure. 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 it was held by the Division Bench 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 the petitioner.

So far the decision relied upon by the learned counsel for the petitioner is concerned, it appears that in that case, the facts are entirely different.



Here, from perusal of the Award itself, it is clear that both the parties appeared and filed compromise application before the Lok Adalat and on the basis of the compromise i.e. the contract between both the parties, the Lok Adalat has approved the same i.e. has given a seal on it. Now, therefore, if the petitioner's case that a fraud has been played on her, that cannot be examined either in exercise of supervisory jurisdiction or under Article 226 of the Constitution of India particularly when the Lok Adalat has the jurisdiction to dispose of any matter which is falling within the jurisdiction and is not brought before any court for which the Lok Adalat is organized vide Section 19(5)(ii) of the Legal Services Authority Act, 1987.

In view of the above position that the Award passed by the Lok Adalat is based on compromise, the same cannot be examined either under Article 226 or under Article 227.

Thus, this writ application is disposed of with the observation that if so advised, the petitioner may initiate appropriate proceeding before appropriate forum for the redressal of her grievance.

(Mungeshwar Sahoo, J)

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