

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15449 of 2012

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Madan Dubey S/O Late Vikrama Dubey R/O Village- Manoharpur, P.S.-
Durgawati, District- Kaimur (Bhabhua)

.... Petitioner.

Versus

1. Jay Prakash Pandey S/O Ramnath Pandey R/O Village- Mohan Bigaha,
P.S.- Dihari, District- Rohtas (Sasaram)
2. Om Prakash Pandey S/O Ramnath Pandey R/O Village- Mohan Bigaha,
P.S.- Dihari, District- Rohtas (Sasaram)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sourendra Pandey, Advocate.
Mr. Rajesh Kumar Mishra, Advocate.
For the Respondent/s : Mr. Shanti Pratap, Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

6 07-01-2016 Heard counsel for the petitioner and the respondents.

The order dated 03.07.2012 passed by the permanent Lok Adalat, Kaimur in Misc. Case No.17 of 2011 is under challenge. The respondent approached Lok Adalat for setting aside the award passed on 09.04.2008 alleging fraud and misrepresentation. The petitioner appeared and raised an issue with regard to maintainability of the proceeding. The same was not accepted and the proceeding was directed to continue for evidence. The said order is under challenge.

It has been submitted, inter alia, that Lok Adalat has no power of review. In this regard, the petitioner has relied on a judgment of this court since reported in **2012(2) PLJR 184**

Paragraph 14 & 15 thereof has been placed. It thus appears that in absence of any provision under the Legal Services Authority Act, 1987 and law enunciated in the aforesaid case, the Lok Adalat committed an apparent error in proceeding with the miscellaneous case being Misc. Case No. 17 of 2011 filed by the respondent.

Mr. Pratap has however supported the impugned order. It is submitted the ex-facie a fraud was committed in obtaining the award.

Having considered the rival submission and in view of the law laid down in the aforementioned case and the provision of the Act, I am satisfied that the order passed by the permanent Lok Adalat impugned in the writ petition merits to be interfered with and set aside. The respondent is not remediless. They may approach the court of competent jurisdiction for setting aside the award on the ground of having obtained the same by playing fraud and misrepresentation.

The writ application is allowed. Impugned proceeding on the file of the Lok Adalat is quashed.

(Kishore Kumar Mandal, J)

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