

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 89 of 2014**

Firat Ram Sahu S/o Ramsai Sahu Aged About 61 Years R/o
Kashigarh, Tehsil- Jejepur, Tehsil, Civil & Revenue Distt. Janjgir-
Champa, Chhattisgarh(Plaintiff)

---- Appellant

Versus

1. Ashok Kumar Sahu S/o Shyam Lal Sahu, Aged About 45 Years R/o
Adbhar, Tehsil- Maalkharoda, Distt. Janjgir-Champa, CG
2. Hiralal Sahu S/o Samsai Sahu Aged About 50 Years Occupation-
Farming, R/o Kashigarh, Tehsil- Jejepur, Distt. Janjgir-Champa, CG
3. Navdha Prasad Sahu (Dead) Through Lrs
4. Divisional Forest Officer Janjgir-Champa Forest Division, Jagdalla,
Champa, Tehsil- Champa, Distt. Janjgir-Champa, CG.....(Defendants)

---- Respondents

For appellant	:	Mr. Anand Shukla, Adv.
For Respondent No. 1, 3-a to e:	:	Mr. T.N. Dubey, Adv.
For Respondent No. 4	:	Mr. Satish Gupta, GA
None for R-2 though served.		

ORDER**9/1/2017**

1. In compliance of order dated 24-11-2016, award of the Lok Adalat dated 17-3-2007 has been filed on behalf of the appellant on 13-12-2016 along with covering memo.
2. The matter is heard finally.
3. Present appellant/plaintiff of Civil Suit No. 9-A/2013 has preferred instant misc. appeal under Order 43 Rule 1 (r) of the Civil Procedure Code (in brevity 'CPC') against the order passed by the Court below dated 18-7-2014 whereby and whereunder learned trial Court had dismissed the application filed by the plaintiff/appellant under Order 39 Rule 1 and 2 read with Section 151 of the CPC. The appellant/plaintiff by filing said interim application prayed that the defendants be restrained by temporary injunction for illegal transfer, sale of the License No. 41 regarding a Saw Mill situated in the immovable property held by

plaintiff and others jointly as ancestral property.

4. The trial Court vide its order dated 18-7-2014 has held that as in para 3 of the award of the Lok Adalat dated 17-3-2007, the Lok Adalat held that the respondent No. 2 shall cooperate for mutation and transfer of the said licence No. 41 in favour of R-1 Ashok Kumar Sahu and as the execution against the said award is pending, in addition to that fact regarding pendency of the execution of said award, the plaintiff/appellant prima facie failed to demonstrate that said licence of saw mill is going to be sold or transferred to any other and also there is no material so as to hold that there is any effort of intervention. With this, the trial Court held that as the plaintiff failed to demonstrate the case prima facie in his favour, also as there is no balance of convenience and irreparable loss in favour of the plaintiff/appellant, the trial Court dismissed the said interim application. Against the said order, the appellant/plaintiff preferred instant misc. appeal and prays that effect and operation of the award dated 17-3-2007 passed in Civil Suit No. 75-A/2006 be stayed, also to set aside the order passed on 18-7-2014 in Civil Suit No. 9-A/2013.
5. Learned counsel for the appellants has duly supported the grounds taken in the misc. appeal.
6. Perused the entire material and the documents annexed.
7. After perusal of the award dated 17-3-2007 and the provision of Section 21 sub-section (2) of the Legal Services Authority Act, 1987, every award made by a Lok Adalat shall be final and binding on all the parties to the dispute and no appeal shall lie in any other Court against the award which goes to show that so far as finality of said award is concerned, unless any direction is made by the writ court, the law makers have not provided any forum for appeal. With this the legislature intended that the award of the Lok Adalat shall not be interfered either in appeal or in any of the matter before the procedural court

so as to interpret the award in any manner. However before execution, the point in relation to executability may be considered. In the present matter, the licence regarding saw mill issued by the authorities is a core issue. Said licence is granted as per law and issuance of the said licence, suspension, termination, transfer etc may be challenged before the writ court. There is no order of writ court setting aside the said award. With this, the award is final. So far as executability is concerned, the same may be questioned because an award passed by the Lok Adalat not executable under the law may be questioned at the time of its execution as the Lok Adalat cannot take away the jurisdiction of State while considering any prayer regarding said licence.

8. The plaintiff/appellant by filing the interim application under Order 39 Rule 1 and 2 read with Section 151 of the CPC prayed that defendant be restrained from issuance of temporary injunction regarding illegal transfer, sale of the said licence No. 41.
9. Under the provisions of law, it is the issuing authority of the said licence who may take appropriate decision regarding any transfer or sale of the said licence. The licence in its nature is non-transferable and can only be issued by the authority of the State, who also have the jurisdiction to amend or to issue any other order in the matter as it deems fit and the said order may be challenged before the forum available as per law.
10. Looking to the prayer of the appellant/ plaintiff in the said interim application, after perusal of the entire material this Court does not see any reason to take a different view.
11. In view of order passed by the Court below as the Court below dismissed the temporary injunction application, opportunity is still with the parties to prove their case and get relief under the law if available after entire appreciation.
12. By filing the instant misc. appeal, prayer made by the

appellant is not permissible under the law as in the instant misc. appeal, the appellant has made the prayer to stay the effect and operation of the impugned award for which other forum is available under the law.

13. After considering the entire material this court is not inclined to set aside the order dated 18-7-2014. Consequently as the appeal being sans substance dismissed as not maintainable.
14. From perusal of the matter, it appears that the civil suit is pending since 2013. The trial Court is directed to expedite the matter and dispose of the same as early as possible preferably within a period of six months from the next date of hearing.
15. Registrar Judicial is directed to send a copy of the order to the Court below for information.

Sd/-
(Chandra Bhushan Bajpai)
Judge