

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15520 of 2013

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Binod Sah Son of Sri Nageshwar Sah, resident of Parsauni Tola, Rige More, P.S.-
Parsauni, District: Sitamarhi.

.... Petitioner/s

Versus

1. Bishwanath Sah Son of Sri Nageshwar Sah, resident of Parsauni Tola, Rige
More, P.S.: Parsauni, District: Sitamarhi.
2. Nageshwar Sah Son of Late Bhuneshwar Sah, resident of Parsauni Tola, Rige
More, P.S.: Parsauni, District: Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushant Kumar Dutta, Advocate
For the Respondent No.1 : Mr. Nirmal Kumar Sinha, Advocate
For the Respondent No.2 : Mr. Pushpendra Kumar Singh, Advocate
Divya Bharti, Advocate
For the Respondent No.3 : Mr. V.R.P. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-01-2018

This application has been filed to set aside the order
dated 9th October 2009 passed by the Lok Adalat, Sitamarhi in
Partition Suit No. 217 of 2006.

2. Heard learned counsels for the petitioner as well as
the respondents.

3. It appears that the respondent no. 1 filed a Partition
Suit No. 217 of 2006 against his father and brother with respect to
their ancestral property. In course of trial, the parties entered into
compromise. The matter was referred to the Lok Adalat, Sitamarhi



where a compromise petition was filed and the Lok Adalat as per order dated 9th October 2009 disposed of the said suit in terms of compromise.

4. The learned counsel for the petitioner submits that the petitioner and one of the co-sharer namely Anita Devi had not put their signature on the compromise petition. The plaintiff in collusion with other defendants committed fraud and forgery and obtained Award without any knowledge to the petitioner and other co-owner. The learned counsel has annexed the compromise petition and copy of Award with this application.

5. The learned counsel for the respondents on the other hand submits that all the parties were present before the Lok Adalat and the Award was passed in their presence, but the learned counsel for the respondents fairly admit that the compromise petition which was filed on 6th October 2009, and is part of Award does not bear the signature of petitioner Binod Sah and Anita Devi.

6. On perusal of Award, it is apparent that the Members of Lok Adalat, while disposing of the case, has observed as follows:-

“This case is disposed of in terms of compromise. The compromise petition duly signed by parties and their respective lawyers will form part of this Award”

7. The compromise petition dated 6th October 2009 has



been annexed as Annexure-3 to this application, which bears the signatures of Vishwanath Sah and Nageshwar Sah. This compromise petition does not bear the signatures of petitioner Binod Sah, Anita Devi and their lawyer. The observations of Lok Adalat Bench are against the actual state of affairs as the compromise petition admittedly does not bear the signature of petitioner.

8. In view of discussion made above, the Award passed by the Lok Adalat, Sitamarhi is set aside and this application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.01.2018
Transmission Date	

