

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8708 of 2014

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1. Manoj Singh son of Late Yamuna Singh, Resident of Village - Bikrampur, P.S. -
Tiya, Distt - Bhojpur.

.... Petitioner/s

Versus

1. Binod Singh
2. Dharmendra Singh
3. Parmendra Singh, All sons of Late Yamuna Singh, Resident of Village –
Bikrampur, P.S. - Tiya, District - Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Kumar Singh, Adv.

For the Respondent/s : Mr. Ajay Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-02-2018

This application has been filed for setting aside the order dated 6th May 2011 passed by the Permanent Lok Adalat, Bhojpur at Ara in Pre-Litigation Case No. 158 of 2011. The said Permanent Lok Adalat, as per impugned order, awarded the case and allowed partition in favour of the petitioner and the respondents.

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

3. It appears that an application was filed before the Permanent Lok Adalat for partition of 6 decimal land of plot no. 387 of Khata no. 150 which was registered as Pre-Litigation Case No. 158 of 2011 on the same day.

4. From the impugned order which has been annexed to



this application, it appears that on the same day, this petitioner and his two brothers filed a joint compromise petition dividing the land in three equal shares.

5. The learned counsel for the petitioner submits that his two brothers misrepresented him and fraudulently obtained his signature on the compromise petition. The land in question is his ancestral property. The father of the petitioner died leaving behind four sons, but the petition for partition of land was filed showing only three sons of Yamuna Singh. One of his brother, namely, Parmendra Singh, respondent no. 3 was neither party to the pre-litigation case nor had signed the compromise petition and so the respondents in collusion with each other fraudulently obtained the Award from the Permanent Lok Adalat. It has been further submitted that the Permanent Lok Adalat has no jurisdiction to entertain such type of case under section 22 of the Legal Services Authority Act and so award passed by Lok Adalat is fit to be quashed. In this regard, the learned counsel for the petitioners in support of his contention cited ruling reported in **2016 (1) P.L.J.R. 935 (Nawal Kishore Prasad Singh & Ors. Vs. The State of Bihar through Chief Secretary & Ors.)**.

6. The learned counsel for the respondents, on the other hand, submitted that the impugned order was passed on



06.05.2011 and after a long delay of three years the petitioner has filed this application only to avoid compromise which was legally entered into by him and so the award passed by permanent Lok Adalat does not require any interference. The petitioner had filed the said pre-litigation case for partition of his land mentioned in Schedule I of the application under Section 22 of Legal Services Authority Act. The Division Bench of this Court in the above case has held at paragraphs 5 and 6 as follows:-

“5. We regret that although there have been standing instructions not to entertain property disputes in Lok Adalats, the Lok Adalats in the State of Bihar have a tendency to receive property disputes in Lok Adalats and to record compromise that too at a pre-litigation stage.

6. In absence of proof of title to the property; of identity of the parties and the genuineness of the claims, no decree for title or partition or possession can be passed. The very stage of proving one's case is obliterated when one approaches the Lok Adalat.”

7. In the case, in hand, I find that a petition was presented before Lok Adalat by the petitioner for partition of suit property without impleading one of the sharer who is full brother of petitioner and respondent nos. 2 and 3. They filed compromise petition dividing the property in three equal shares although there were four sharers. The said compromise petition was accepted and award was passed on 06.05.2011. The petitioner has alleged that his signature was fraudulently obtained on the said compromise petition.



So the award in question is not legally sustainable.

8. In view of the provision of Legal Services Authority Act, the property dispute under pre-litigation case before Lok Adalat is not maintainable and so the impugned order granting award in Pre-Litigation Case No. 158 of 2011 by Permanent Lok Adalat is set aside and this writ application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.02.2018
Transmission Date	

