

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25127 of 2013

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1. Afshan Rahman D/O Late Dr. Sk. Rahman Resident Of Dr. Wazir Ali Road, P.S- Gaya Town, District- Gaya, At Present Resident Of L- 302, Jaipuria, Green, Indrapuram, P.S- Indrapuram, District- Ghaziabad (U.P)

.... Petitioner/s

Versus

1. The State Of Bihar, Through Law Secretary, Dept. Of Law, Govt. Of Bihar, Patna.
2. The Presiding Officer, Lok Adalat Gaya.
3. Naiyara Khatoon W/O Wasi Ahmad R/O Village- Nerthua, P.S- Kako, Distt- Jehanabad
4. Naiyan Alam S/O Wasi Ahmad R/O Village Nertha, P.S- Kako, Distt- Jehanabad, At Present R/O Mohalla- K.P. Road, Dr. Wazir Ali Road, P.S- Kotwali, Distt- Gaya.
5. Wasi Ahmad S/O Late Wasi Ahmad R/O Village Nertha, P.S- Kako, Distt- Jehanabad, At Present R/O Mohalla- K.P. Road, Dr. Wazir Ali Road, P.S- Kotwali, Distt- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s. Arshad Alam & Gautam Kumar Yadav
For the State : Mr. SC5-Vinay Kriti Singh
For the respondents 3-5 : Mr. Khurshid Alam

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

10 03-04-2018 Heard Mr. Arshad Alam, the learned counsel for the petitioner, the learned counsel for the State and Mr. Khurshid Alam, the learned counsel for the respondent Nos. 3 to 5.

The petitioner has filed this writ petition to quash the order dated 14.05.2011 passed by Lok Adalat, Gaya by which the Lok Adalat accepted the compromise at pre litigation stage of the suit in terms of the compromise petition.

The learned counsel for the petitioner submits that



Lok Adalat is constituted under Section 19 of Bihar Legal Services Authority Act (hereinafter referred to as the Act) and the Lok Adalat has got no jurisdiction to entertain pre litigation stage suit for deciding title and for partitioning the property in absence of any proof of identification of the person and property. It is further submitted that on similar facts a division bench of this court in the case of **Nawal Kishore Prasad Singh vs. State of Bihar** reported in **2016 (1) PLJR 935** held that the Lok Adalat has no jurisdiction to entertain pre litigation suit and pass decree for title, partition or possession.

Mr. Khurshid Alam, the learned counsel for the respondent Nos. 3 to 5, submitted that Lok Adalat has got jurisdiction to dispose of the cases on compromise if the same is referred to Lok Adalat by a Civil Court under Section 89 of the C.P.C. It is further submitted that in the case of **Laxmi Narayan Singh v. Basant Singh & Ors (L.P.A. No. 2114 of 2015)** in which Mr. Arshad Alam, the learned counsel for the petitioner, had occasioned to appear, dismissed the LPA and refused to interfere into judgement and decree passed in a partition suit by the Lok Adalat. It is further submitted that petitioner has got no locus to challenge the order passed by the Lok Adalat and the same is not binding on him as he was not a party in the suit.



From the facts it appears that Naiyra Khatoon is wife of Wasi Ahmad. Wasi Ahmad is said to have got the land through oral Hibba from the petitioner, Afshan Rahaman. Thereafter, name of Wasi Ahmad was mutated but the land-lord was not informed about the mutation being done in the name of Wasi Ahmad with regard to land standing in the name of petitioner. On such mutation, Naiyra Khatoon, respondent No.3, filed petition at pre litigation stage before the Lok Adalat for settlement of dispute between Naiyra Khatoon, Wasi Ahmad, respondent No.5, Naiyar Alam and on such petition Lok Adalat accepted the compromise. It is apparent that there is no written deed of Hibba executed by the petitioner. The genuineness of oral Hibba is yet to be tested by the Civil Court. The petitioner denied to have executed or declared any oral Hibba. On such fact, the Lok Adalat constituted under Section 19 of the Act has got no jurisdiction to entertain petition for declaration of title and possession or partition of the property. The facts of the present case are different from the case of *Laxmi Narayan Singh (supra)* and on similar facts a division bench of this court in the case of *Nawal Kishore Singh v. State of Bihar (supra)* has held that Lok Adalat lacks jurisdiction to entertain pre litigation stage suit to decide title of a property or partition of the property in absence of the proof of title or identity of the parties.



Considering the facts aforesaid, I find that the order dated 14.05.2011 passed by Lok Adalat is without jurisdiction and illegal. Accordingly, the same is set aside and this writ petition is allowed.

(Prabhat Kumar Jha, J)

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