

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23884 of 2013

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1. Shashi Bhushan Mishra Son Of Sri Ram Pyare Mishra @ Pyare Mishra
Resident Of Village- Budhaul, P.S.- Nawada, District- Nawada

.... Petitioner/s

Versus

1. Ram Pyare Mishra @ Pyare Mishra Son Of Late Ram Padarath Mishra
2. Savitri Devi Wrongly Described As Wife Of Ram Pyare Mishra Both
Residents Of Village- Budhaul, P.S.- Nawada, District- Nawada
3. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar

For the Respondent/s : Mr. Harendra Pd. Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

8 25-07-2018 Heard Mr. Rajendra Prasad, learned senior counsel for
the petitioner. Nobody appears on behalf of the respondents.

The petitioner has filed this writ petition against the order dated 11.06.2013 passed by Lok Adalat by which a compromise decree/award was passed accepting the compromise of Savitri Devi and Ram Pyare Mishra @ Pyare Mishra.

The learned counsel for the petitioner submits that this Court in the case of Nawal Kishore Prasad Singh & Ors. v. The State of Bihar & Ors., 2016(1) PLJR 935 has held that under Section 22(c) of the Legal Services Authority Act, 1987, the Lok Adalat is not competent to receive the compromise petition in absence of proof of title to the property, identity of the parties and the genuineness of the claims and on such, no decree for title or partition or possession can be passed. The Division Bench also



directed not to entertain such property disputes.

It appears that Savitri Devi, claiming herself to be second wife of Ram Pyare Mishra, filed a compromise petition bearing her signature and the signature of Ram Pyare Mishra @ Pyare Mishra. The first wife of Ram Pyare Mishra has already died. Ram Pyare Mishra got only son namely Shashi Bhushan Mishra from his first wife. Ram Pyare Mishra got a daughter from second wife who is already married. The entire property has been partitioned between second wife and Shashi Bhushan Mishra, the sole son of Ram Pyare Mishra from his first wife. The learned counsel for the petitioner submits that petitioner, sole son of Ram Pyare Mishra, disputed the facts that his father ever solemnized any second marriage and he was not made party to the compromise in a partition suit whereas the petitioner was also a necessary party in a partition suit.

In this view of the fact and the law laid down by the Division Bench of this Court in the case of Nawal Kishore Prasad Singh(supra), I find that the compromise decree/award passed by the Permanent Lok Adalat on 11.06.2013 in pre-litigation case No.38 of 2013 in absence of the petitioner is unsustainable. Accordingly, the same is set aside. Thus, this writ petition is allowed.

Saurabh/-

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(Prabhat Kumar Jha, J)

