

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3410 of 2014

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1. Viveka Nand Sharma Son of Late Ramshankar Sharma Resident of Mohalla Lalkuan Bambawali Gali (Lucknow) House No. 67/13 Chitwapur Road P.O. Sunderbagh, P.S. Husenganj, District Lucknow (Up) Pin No. 226001.

2. Hari Shankar Sharma Son of Late Jaggu Ram Sharma @ Nathuni Sharma Resident of Mauza Tara Dhanwan P.O. Patauni P.S. Tajpur District Samastipur At Present Resident Of Sitachauk Brindavan Colony Hazipur Po & Ps, Dist – Vaishali.

.... Petitioners

Versus

1. The State of Bihar through Collector, Vaishali.

2. Secretary Legal Services Authorities Vaishali, Hazipur.

3. Bhagwan Prasad Sharma Son of Late Jaggu Ram Sharma @ Nathuni Sharma Resident of Village Tara Dhamaun P.O. Patauri P.S. Tajpur District Samastipur At Present Mohalla Bag Musa Hazipur P.S. Hazipur Town P.O. Hazipur District Vaishali.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha, Advocate

For the Respondent/s : Mr. Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 31-01-2018 This writ application has been filed to quash the order dated 18.01.2005 passed by permanent Lok Adalat, Vaishali at Hajipur in Case No.110 of 2004 (Pre litigation) whereby and whereunder the case was disposed of in terms of compromise between the parties.

2. Heard learned counsel for the petitioners as well as the respondents.

3. It is not in dispute that respondent no.3 filed aforesaid case on 04.12.2004 for partition of his land before permanent Lok



Adalat which was registered as pre-litigation case under the provision of Section 22 of the Legal Services Authority Act, 1987. It was admitted and summon was ordered to be issued. The said order was not complied and on 04.01.2005 a compromise petition purported to be signed by petitioner no.2 and two others was filed. The said compromise was accepted and the award was passed on 18.01.2005.

4. It has been submitted that the father of petitioner no.1 and petitioner no.2 were party to the case but they were neither noticed nor they appeared before permanent Lok Adalat. The respondent no.3 fraudulently filed compromise petition by putting forged signature of the father of petitioner no.1 and petitioner no.2. The permanent Lok Adalat had no jurisdiction to entertain the said application 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.)**.

5. The learned counsel for the respondents, on the other hand, submitted that the impugned order was passed in the year 2005 and after a long delay of nine years the petitioners have filed this application only to avoid compromise which was legally



entered into by them and so the award passed by permanent Lok Adalat does not require any interference. The respondent no.3 had filed the said pre-litigation case for partition of his land mentioned in Schedule I and II 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.”

6. In the case, in hand, I find that a petition was presented before Lok Adalat by respondent no.3 for partition of suit property. The Lok Adalat ordered for issuance of summon but without issuance of summon, a compromise petition was filed purported to be signed by the father of petitioner no.1 and petitioner no.2. The said compromise petition was accepted and awarded was passed on 18.01.2005. The petitioners have denied their signature on the said compromise petition. So the award in question is not legally sustainable.

7. In view of the provision of Legal Services Authority



Act and the property dispute under pre-litigation case before Lok Adalat is not sustainable. The impugned order granting award by Lok Adalat in view of above fact is set aside and this writ application is allowed.

(Sanjay Kumar, J)

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