

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20547 of 2013

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Keshav Kumar S/O Deo Prasad Pandit R/Of Mohalla- Makhдум Sarai,
Mahavir Path, P.O. Siwan, P.S. Siwan Town, District- Siwan

... .. Petitioner

Versus

1. Dhura Devi W/O Ganga Sagar Nonia R/O Village- Pakri Bangali, P.S. Mahadewa, O.P. District- Siwan At Present R/O Amarpur, Sipahi Tola, P.O. Kewetliya, P.S. Darauli, District- Siwan

Opposite Party/Respondent 1st Set

2. Dhreshwar Chauhan S/O Shivji Nonia R/O Village- Pakri Bangali, P.S. Mahadewa, O.P. District- Siwan

3. Anita Devi W/O Harendra Nonia D/O Shivji Nonia R/O Village- Pakri Bangali, P.S. Mahadewa, O.P. District- Siwan At Present R/O Village- Salempur, P.O. and P.S. Salempur, District- Deoria U.P.

Opposite Party/Respondent 2nd Set

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Anil Chandra Mr. Amit Kumar
For the Respondents No. 1 & 3:		Mr. Amit Kumar Rakesh Mrs. Poonam Kumari

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 26-07-2019 An award, made by so-called Permanent Lok Adalat, Siwan, dated 11.06.2013, passed in Pre Litigation Case No. 105 of 2013, whereby the said case has been disposed of in terms of a compromise petition filed by respondent 1st set and respondent 2nd set , is under challenge in the present writ application filed under Article 227 of the Constitution of India.

I have heard learned counsel appearing on behalf of the petitioner and learned counsel representing respondents No. 1 and 3. Despite service of notice, there is no representation on behalf of respondent No.2. There is no counter affidavit filed on



behalf of the respondents and, therefore, this Court has no option, but to proceed on the basis of the averments made in the writ petition, which have remained uncontroverted.

It is the petitioner's case that respondent No. 2 had executed nine (9) sale deeds in respect of the lands, admeasuring 13 katha 10 dhurki, out of 1 bigha 14 katha 3 dhurki, appertaining to Khata No.64, Plot No. 1208, in favour of the petitioner. Subsequent to the execution of the sale deeds, a mutation proceeding was initiated and the land was mutated in the name of the petitioner's father. The sale deeds were executed between 28.02.1998 to 22.08.2000.

In the year 2013, respondent No.1 filed a Pre Litigation Case No. 105 of 2013 against respondent 2nd set for partition of the land situate at Village-Pakri Bangali, in Thana No. 247, Tauji No. 1375, Khata No. 64, Plot No.102, 1202, 1206, 1208 and 1231, having an area of 1 bigha, 14 katha, 3 dhurki, out of which 13 katha 10 dhurki was sold through aforesaid nine sale deeds. The fact that respondent No.1 had sold the land in favour of the petitioner's father was concealed, according to the petitioner, in the compromise petition filed before the Lok Adalat, which had given rise to the said Pre Litigation Case No. 105 of 2013. On the basis of the said



compromise petition, the Lok Adalat passed the award.

Learned counsel appearing on behalf of the petitioner submits that in the light of the award so prepared by the so-called Permanent Lok Adalat, the respondents, including the petitioner's vendor, are disturbing the peaceful possession of the petitioner over the land, which the petitioner's father had purchased through aforesaid nine sale deeds from respondent No.1.

He has submitted that if the parties desired to get any compromise decree through the process of Lok Adalat, the petitioner ought to have been informed and noticed, since he had purchased the aforesaid lands in question, which too was made subject matter of compromise before the so-called Permanent Lok Adalat.

Learned counsel appearing on behalf of respondents No. 1 and 3 has, however, not been able to satisfy as to whether the Permanent Lok Adalat could have entertained a compromise petition relating to partition in the family. He has, however, not disputed the fact that sale deeds were executed in favour of the petitioner as stated in paragraph 4 of the writ application.

I have heard learned counsel for the parties and have carefully perused the pleadings and material on records, which



have been given anxious consideration for the present adjudication.

‘Lok Adalat’ has been dealt with under Chapter-VI of the Legal Services Authorities Act, 1987, section 19 of which deals with organisation of Lok Adalats. Chapter-VI-A, on the other hand deals with Pre-Litigation Conciliation and Settlement by Permanent Lok Adalat. Permanent Lok Adalat has been defined under Section 22-A(a) as a Lok Adalat established under sub-section (1) of Section 22-B of the Act. Section 22-B of the Act provides that notwithstanding anything contained in section 19 of the Act, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification. It is quite evident from the language of Section 22-B of the Act that a Permanent Lok Adalat is to be established for exercising jurisdiction in respect of public utility services only. ‘Public Utility Services’ has been defined under Clause (b) of Section 22-B of the Act, which deals with, (i) transport service for the carriage of passengers or goods by air, road or water; or (ii) postal, telegraph or telephone service; or (iii) supply of power,



light or water to the public by any establishment; or (iv) system of public conservancy or sanitation; or (v) service in hospital or dispensary; or (vi) insurance service, and includes any service which the Central Government or the State Government, as the case may be, may, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

At the first place, if it was a Permanent Lok Adalat, which passed the award, it ought not to have entertained an application seeking partition decree on the basis of compromise, which is certainly not a public utility service. Secondly, the Court takes judicial notice of the fact that there was no Permanent Lok Adalat in the district of Siwan and there has been, in fact, no such Permanent Lok Adalat established in accordance with the provisions under Section 22-B of the Act, by issuance of requisite notice. I reiterate the view taken on this point in case of *Dhirendra Pratap Singh vs. Ravi Kant Singh*, reported in **2014(2) PLJR 619**.

The impugned award, dated 11.06.2013, passed in Pre Litigation Case No. 105 of 2013 is accordingly held to be null and void being without any jurisdiction.

This application is accordingly allowed.

It is made clear, however, that any observation made



by me in the present order shall not be treated to be an expression on the petitioner’s claim of his title over the land in question as his title is dependent upon the title of his vendor.

(Chakradhari Sharan Singh, J)

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