

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20 of 2016

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Nizamuddin @ Saiyad Nizamuddin Son of Late Md. Amin resident of village
P.O. P.S. - Nuaon, District - Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. Saiyad Shahnawaz Alam @ Laddan, Son of Late Md. Nizam resident of village P.O. Katkala, P.S. and District - Buxar, At present residing at village P.O. P.S. - Nuaon, District - Kaimur Bhabhua.
2. Ayasha Begam W/o Late Md. Moinuddun resident of village P.O. P.S. Nuaon, District - Kaimur (Bhabhua).
3. Afsana Begam D/o Saiyad Nizamuddin resident of village P.O. P.S. - Nuaon, District - Kaimur (Bhabhua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sourendra Pandey
For the Respondent/s	:	Mr. Rajendra Narayan
	:	Mr. Alok Ranjan

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
C.A.V. JUDGMENT

Date : 12-09-2019

1. The present writ petition has been filed for setting aside the order dated 20.12.2010 passed by the Presiding Officer, Permanent Lok Adalat in Misc. case no. 36 of 2007 arising out of Pre-litigation case no. 205 of 2004, whereby and whereunder the miscellaneous case filed by the petitioner to set aside the award dated 11.08.2004 passed in the said Pre-litigation case, has been dismissed with cost.

The petitioner has further prayed for setting aside the award dated 11.08.2004 passed in Pre-litigation case no. 205 of 2004, whereby and whereunder the same has been decreed by



the Presiding Officer of Permanent Lok Adalat, Kaimur at Bhabhua in terms of the compromise.

2. The brief facts of the case, according to the petitioner is that the respondent no. 1 namely Saiyad Shahnawaz Alam @ Laddan had filed a Pre-litigation case no. 205 of 2004 on 16.07.2004 before the Permanent Lok Adalat, Kaimur at Bhabhua without impleading the petitioner herein as a defendant and a prayer was made to confirm the right, title and possession over the Scheduled 'K' land. In the said petition filed by the respondent no. 1, it had been stated that Late Moinuddin, husband of the respondent no. 2 herein, had died issueless and on account of love and affection, he had orally gifted Schedule 'K' property to the respondent no. 1, whereafter the respondent no. 1 had been coming into peaceful possession of the said property. The respondent no. 2 herein had appeared in the said Pre-litigation case and in collusion with the respondent no. 1, had filed a compromise petition on 05.08.2004 with a prayer to confirm the right, title and possession of the Schedule 'K' land in favour of the petitioner no. 1, whereafter an award dated 11.08.2004 was prepared in terms of the compromise and the learned Permanent Lok Adalat had declared the right, title and possession of the Schedule 'K' property in favour of the



respondent no. 1 and accordingly had disposed of the Pre-litigation T.S. no. 205 of 2004. It is the further case of the petitioner that after he came to know of the aforesaid award dated 11.08.2004, he had filed Miscellaneous case no. 36 of 2007 on 02.08.2007 for setting aside the award dated 11.08.2004, however the said miscellaneous case has been dismissed by the impugned order dated 20.12.2010.

3. The learned Senior Counsel for the petitioner has submitted that both the award dated 11.08.2004 as well as the order dated 20.12.2010 passed by the Permanent Lok Adalat, Kaimur at Bhabhua are illegal and without jurisdiction. It has been further submitted that the Lok Adalat can only resolve dispute in relation to public utility service including such service, which the Central or the State Government may declare, in the public interest, to be public utility services under ***Section 22-A(b) of Legal Services Authorities Act, 1987*** (hereinafter referred to as the Act, 1987). It is submitted that the dispute in question, does not fall within the ambit of the public utility service, as defined under ***Section 22-A(b) of the Act, 1987***. The learned Senior Counsel for the petitioner has further submitted that the order dated 20.12.2010 passed by the Permanent Lok Adalat, Kaimur at Bhabhua is equally misconceived, illegal and



erroneous, inasmuch as the miscellaneous case filed by the petitioner herein, has been dismissed on the ground that the petitioner has failed to state in his miscellaneous petition, as to what kind of fraud was played by the parties in obtaining the award dated 11.08.2004, whereas the fact is that fraud is writ large from the records of the case.

4. The learned Senior counsel for the petitioner has relied on a judgment rendered in the case of ***Dhirendra Pratap Singh v. Ravi Kant Singh*** by a co-ordinate Bench of this Court reported in ***2014(2) PLJR 619***, paragraphs 5, 6, 9, 10, 11, 15 and 16 whereof, are reproduced hereinbelow :-

“ 5. Learned counsel for the petitioner has submitted that award dated 20.12.2003 passed by ‘Lok Adalat’ on the basis of compromise, attained finality in terms of Section 21 of the Act which was not appealable before any Court. He further submitted that power of review is statutory in nature and in the absence of such power “Permanent Lok Adalat” Kaimur at Bhabhua could not have reviewed the award passed by ‘Lok Adalat’.

6. Learned counsel appearing on behalf of respondents, defending the impugned order passed by “Permanent Lok Adalat” Kaimur at Bhabhua has contended that respondent No. 2 was intentionally not impleaded as a party in Title Suit No. 283 of 2003 and award passed by „Lok Adalat” dated 20.12.2003 was collusive and in such circumstance “Permanent Lok Adalat”, taking into account entire facts and circumstances rightly set aside the



award passed by 'Lok Adalat'.

9. From the conjoint reading of Section 22-A(a), 22B and 22A(b), it would be evident that "Permanent Lok Adalat" can be established only for exercising jurisdiction in respect of one or more „public utility services" as defined under Section 22-A.

10. A "Permanent Lok Adalat", in view of these provisions can have no jurisdiction with respect to any matter other than public utility services as defined under Section 22 -A(b).

11. This is also to be noted that these provisions fall under Chapter VI A of the Act which deals with pre-litigation, conciliation and settlement. From the heading of Chapter VI-A, it will appear that a "Permanent Lok Adalat" shall have no jurisdiction in respect of a matter which had been pending in a court of law. It can have jurisdiction with respect to only such matters which have so far not travelled to the court of law.

15. There are two aspects of the matter As has been noted above, none of the public utility services within the meaning of Section 22A(b) was the subject matter of the suit. The subject matter of the suit had no connection at all with the public utility services for which Permanent Lok Adalats are established and only over which the Permanent Lok Adalat can have jurisdiction. In the facts and circumstances of the case, in my opinion, the "Permanent Lok Adalat" had no jurisdiction at all to entertain the application filed by the Respondent No. 2 for any purpose whatsoever with respect to the subject matter of the Title Suit No.283 of 2003. The impugned order dated 10.06.2011 passed by "Permanent Lok Adalat" Kaumur at Bhabhua, in Miscellaneous Case No. 06 of 2004 cannot be sustained



being absolutely without jurisdiction. Secondly; in any case, a “Permanent Lok Adalat” could not have entertained any dispute which was brought before any court prior to parties approaching to “Permanent Lok Adalat”. A “Permanent Lok Adalat” certainly has the jurisdiction even to adjudicate upon the disputes between the parties but only with respect to pre-litigation matters when the dispute relates to one of the public utility services. The “Permanent Lok Adalat” cannot have any jurisdiction to deal with any dispute other than that provided under Chapter IV-A of the Legal Services Authorities Act, 1987.

16. Submission made on behalf of the respondents cannot be accepted in view of the discussions as above. Accordingly, this application is allowed. The impugned order dated 10.06.2011 passed by ‘Permanent Lok Adalat’, Kaimur at Bhabhua in Miscellaneous case no. 6 of 2004 is set aside.”

5. *Per contra*, the learned counsel appearing for respondents no. 1 and 2 has submitted that the fact is that the land in question originally belonged to one Md. Aziz who had two sons namely Md. Ameen and Mohammadin but they had got separated and partition had taken place in between them pertaining to the property they had inherited from their father namely Md. Aziz. Md. Ameen had two sons namely Sheikh Nizamuddin i.e. the petitioner herein and Md. Moinuddin. The said Md. Ameen also died leaving behind his abovenamed two sons who came in joint possession over the 3.56 acres of land. It



is further submitted that after the death of Md. Ameen, partition had taken place between Sheikh Nizamuddin and Md. Moinuddin and both the brothers came in separate exclusive possession of their respective shares. Since Md. Moinuddin had no issue, he had kept Md. Saiyed Shahnewaj Alam @ Laddan i.e. the respondent no. 1 with him to look after him and his wife namely Aysa Begum i.e. the respondent no. 2 herein. The respondent no. 1 is stated to be the son of the brother-in-law of Md. Moinuddin. The said Md. Moinuddin, during his life time, had made a oral gift in presence of his wife and other relatives in respect of his entire property to the respondent no. 1 on account of love and affection, whereafter the respondent no. 1 had also accepted the said oral gift (*hebbu*) and thereafter, the respondent no. 1 had come into exclusive possession over the land in question. After the death of Md. Moinuddin in the year, 2003, the petitioner had turned dishonest and on account of his greedy and bad intentions of grabbing the land of Md. Moinuddin, which had been gifted to the respondent no. 1, the respondent no. 1 had filed a Pre-litigation case no. 205 of 2004 before the Permanent Lok Adalat, Kaimur at Bhabhua, wherein the respondent no. 2 had appeared and a joint compromise petition dated 05.08.2004 was



filed and the said case was decreed in favour of the respondent no. 1 vide an award dated 11.08.2004. Thereafter, the petitioner, in collusion with his daughter i.e. the respondent no. 3 herein, had filed a Miscellaneous case no. 36 of 2007 before the Permanent Lok Adalat, Kaimur at Bhabhua for setting aside the award dated 11.08.2004 on the ground of fraud, however the same has been dismissed by an order dated 20.12.2010.

6. The learned counsel for the respondent no. 1 has relied upon the provisions contained in ***Sub-clause (1)*** of ***Section 22-C of the Act, 1987***, which is reproduced hereinbelow :-

“ (1) Any party to a dispute may, before the dispute is brought before any Court, make an application to the Permanent Lok Adalat for the settlement of dispute. ”

Thus, it is submitted by the learned counsel for the respondent no. 1 that the Permanent Lok Adalat, in question has got jurisdiction to entertain the connected case and pass an award.

7. I have heard the learned counsel for the parties and gone through the materials on record. At this juncture, it would be relevant to reproduce Sections 22-A, 22-B and 22-C of the Legal Services Authorities Act, 1987 hereinbelow :-



22A. Definitions

In this chapter and for the purposes the Section 22 and 23, unless the context other requires.

a) “Permanent LokAdalat” means a Permanent LokAdalat established under sub-section (1) of Section 22 B;

b) “Public Utility Service” means any-

i) Transport services for the carriage of passengers or goods by air, road or water; or

ii) Postal, telegraph or telegraph or telephoneservice; 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.

22B. Establishment of Permanent LokAdalat

1. Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, be notification, establish Permanent LokAdalat 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.



2. Every Permanent LokAdalat established for an area notified under sub-section (1) shall consist of-

a) A person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent LokAdalat;and

b) Two other persons having adequate experience in public utility services to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may, the State Authority, establishing such Permanent LokAdalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be prescribed by the Central Government.

22-C. Cognizance of cases by Permanent Lok Adalat.

(1) Any party to a dispute may, before the dispute is brought before nay court, make an application to the Permanent LokAdalat for the settlement of dispute; Provided that the Permanent LokAdalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law; Provided further that the Permanent LokAdalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees;



Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.
(2) After an application is made under sub-section (1) to the Permanent LokAdalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent LokAdalat under sub-section (1), it (a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the applicant;
(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;
(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply



thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent LokAdalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstance of the dispute.

(5) The Permanent LokAdalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent LokAdalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent LokAdalat to produce evidence and other related documents before it.

(7) When a Permanent LokAdalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the partes, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement or the dispute, they shall sign the settlement agreement and the Permanent LokAdalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties failed to reach at an agreement under sub-section (7), the Permanent LokAdalat shall, if the dispute does not relate to any offence, decide the dispute.

8. A bare perusal of Section 22-A(b), which defines



the public utility service and a collective reading of Section 22-A(a), Section 22-A(b), Section 22-B and Section 22-C would demonstrate that- “In Chapter VI-A of the Legal Services Authorities Act, 1987”, which deals with Pre-litigation, Conciliation and Settlement, the Permanent Lok Adalats have been established only for exercising jurisdiction in respect of one or more public utility services as defined under Section 22-A (b) of the Act. Thus, a Permanent Lok Adalat Court has no jurisdiction with respect to any matter other than the public utility services.

9. In the instant case, the respondent no. 1 had filed a Pre-litigation case bearing case no. 205 of 2004 before the learned Court of Permanent Lok Adalat, Kaimur at Bhabhua *inter alia* praying therein to declare and confirm that the complainant/ plaintiff is the owner and has the possession over the suit property which has been described in Schedule ‘K’. It is apparent that the said Pre-litigation T.S. case no. 205 of 2004 had no connection at all with the public utility services for which Permanent Lok Adalats, as aforesaid, have been established and over which, the Permanent Lok Adalat can have jurisdiction.

10. Having regard to the facts and circumstances of the



case as also considering the aforesaid provisions of law, this Court is of the opinion that the Permanent Lok Adalat has no jurisdiction at all to either entertain or deal with any dispute other than those provided for, under Section 22-A(b) of the Act, 1987, inasmuch as the subject matter of the said suit in question does not relate to any of the public utility services. Consequently, this Court finds that the award dated 20.12.2010 passed by the Permanent Lok Adalat, Kaimur at Bhabhua in Pre-litigation case no. 205 of 2004 is without jurisdiction, hence is set aside. Resultantly, the order dated 20.12.2010 passed by the Permanent Lok Adalat in Miscellaneous case no. 36 of 2007(arising out of the aforesaid order dated 11.08.2004) is bound to fall having no legs to stand, on account of quashing of the award dated 11.08.2004 itself, thus the same is also quashed.

11. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	18.07.2019
Uploading Date	12.09.2019
Transmission Date	NA

