

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 07.11.2019

Order Passed on : 19/11/2019

W.P.(227) No. 41 of 2018

- Firatram Sahu Son Of Ramsai Sahu, Aged About 64 Years At Present
R/o Kashigarh, Tahsil Jaijaipur, District Janjgir- Champa, Chhattisgarh

---- Petitioner

Versus

1. Ashok Kumar Sahu Son Of Shyamlal Sahu, Aged About 45 Years R/o
Adhbar, Tahsil Malkharoda, District Janjgir- Champa, Chhattisgarh
2. Heeralal Sahu, Son Of Ramsai Sahu, Aged About 50 Years Kastkar, R/o
Kashigarh, Tahsil Jaijaipur, District Janjgir- Champa, Chhattisgarh
3. Navdha Prasad Sahu (died), Through Its Legal Representatives-
Virhaspat Sahu, Son Of Late Navdha Prasad Sahu
4. Shyamsunder Sahu, Son Of Late Nadha Prasad Sahu
5. Kumari Sahu, D/o Late Navdha Prasad Sahu
6. Vimla Sahu, D/o Late Navdha Prasad Sahu
(respondent No.3 to 6 are r/o Qr.No. M.Q.B. 25, P.O. Balgi, District
Korba, Chhattisgarh)
7. Smt. Nirmal Sahu, D/o Late Navdha Prasad Sahu, W/o Ramratan Sahu,
Chiradih, Jaijaipur, District Janjgir- Champa, Chhattisgarh
8. Divisional Forest Officer, Janjgir Champa, Forest Division Jagdalla,
Champa, Tahsil- Champa, District- Janjgir- Champa, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Anand Shukla, Advocate.
For respondent No.1	:	Mr. Siddharth Dubey, Advocate.
For respondent No.2	:	Mr. Anshul Tiwari, Advocate.
For respondent No.8/State	:	Mr. Neeraj Sharma, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

19/11/2019

1. This petition has been brought challenging the validity of compromise decree passed by continuous Lok Adalat in Civil Suit No.25A/2006 on 17.03.2007.
2. Learned Senior counsel for the petitioner submits that the disputed property was jointly purchased by petitioner, respondent No.2 and respondent No.3 as party. On 19.07.1983 as the petitioner and respondents were members of joint family, therefore, according to family arrangement saw mill license was obtained in favour of respondent No.2. Respondent No.2 then sold the saw mill and other articles to respondent No.1 by a sale agreement vide annexure P-4. In that sale agreement, it was mentioned that the saw mill was partitioned in favour of brother of the seller, respondent No.2. Subsequent to the sale, the licence was mutated in favour of the respondent No.1 vide annexure P-5.
3. It is further submitted that thereafter a dispute arose between respondent No.1 and 2 for that reason a writ petition No.1087/2004 was filed before this Court which was dismissed with direction that the matter in dispute can be decided only by a jurisdictional Civil Court. Subsequent to which, respondent No.1 filed a Civil Suit without impleading the petitioner as a party. Respondent No.8 had denied the prayer of the respondent No.1 on the ground that Hon'ble Supreme Court has restrained the sale purchase of saw mill and the order remained maintained before the appellate authority of the department. He has also submitted that a circular had been issued by the State Government on 03.06.1991 that because of pendency of petition no.2002/2015 in case of T.N. Godavarman Vs. Union of India, the transfer of saw mill shall be against the policy. Similar circular has been issued by the Chhattisgarh State Government.

4. The Civil Suit was filed without impleading the petitioner as party and compromise in Lok Adalat on the terms which are not acceptable in law cannot be executed in view of the observation made by the Supreme Court in T.N. Godavarman case. The petitioner had earlier challenged the compromise decree in First Appeal No.212/2017 which has been disposed off on 06.10.2017. Placing reliance on the judgment of Supreme Court in ***Bhargavi Constructions & Anr. Vs. Kothakapu Muthyam Reddy & Ors.*** reported in ***2017 SCC Online SC 1053***, it was held that award of Lok Adalat can be challenged only by a petition in Article 226 and/or Article 227 of Constitution of India. Therefore, this petition has been filed. Learned counsel for the petitioner placing reliance on the judgment of Supreme Court in ***A.V. Papayya Sastry & Ors. Vs. Govt. of Andhra Pradesh & Ors.*** reported in ***(2007) 4 SCC 221*** submits that where any judgment or order is obtained by fraud, it is not an order or judgment in the eyes of law. Therefore, it is prayed that petition be allowed and the compromise decree of the Lok-Adalat be set aside.
5. Learned counsel for respondent No.1 submits that the petitioner was not a party in the compromise decree. Therefore, he has no locus standi to praying this petition. It is denied that the property in dispute in this case was property of a joint Hindu family. Therefore, the petitioner is stranger in this dispute and his petition cannot be entertained. There is nothing to show that the petitioner was having any entitlement on the machines of saw mill which were the subject matter of the transaction between respondent No.1 and 2, therefore, the petitioner has made this delivery.
6. On behalf of respondent No.2, similar argument has been advanced.
7. Learned counsel for the State/respondent No.8 submitted that the dispute is mainly between the petitioner and respondent no.1 and 2. Therefore, the petition against the respondent No.8 be dismissed.

8. A question of locus standi of the petitioner is firstly needed to be considered for the reason that the petitioner is not one of the parties in Civil Suit No.25A/2006, the compromise decree wherein has been challenged by him. The claim of the petitioner that he was one of the joint owners of the suit property on the basis of sale-deed annexure P-2, needs to be examined.
9. On perusal of annexure P-2, it is found that it is the sale-deed of a land, description of which is given in the said sale-deed. There is nowhere mentioned anything regarding the saw mill and other equipments. The statement of petitioner that according to family arrangement, licence for saw mill was obtained in the name of the respondent No.2, the same family arrangement or agreement in the form of any document has not been produced along with the petition. Therefore, this is merely an oral statement of the petitioner. Apart from that on perusal of the compromise decree, it is found that there had been a transaction for sale of saw mill machine, haller mill, paddy mill and other articles. The compromise decree does not anywhere mention the land which was purchased in joint ownership of the petitioner and respondent No.2 and neither it mentions that the saw mill and other machineries which situated on the land were jointly purchased by petitioner and respondent No.2. Therefore, there is nothing to suggest or substantiate that the subject matter of the Civil Suit that is the saw mill and the other machineries were under the joint ownership of petitioner and respondent no.1. Hence, I am of this view that the locus-standi of the petitioner to challenge the compromise decree by the continuous Lok Adalat is not at all made out, therefore, this petition brought by him cannot be entertained. Hence, it is dismissed.