

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

Civil Revision No. 248 of 2018 (O&M)

DATE OF DECISION : November 14 , 2019

M/s A.M.D. Estate Private Limited

..... PETITIONER(S)

VERSUS

Mamta and others

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Ajay Jain, Advocate, for the petitioner.
None for respondent No.1.

...

Sanjay Kumar, J.

The petitioner in this revision, filed under Article 227 of the Constitution, is the first defendant in CIS No. 1652 of 2016 on the file of the learned Civil Judge (Junior Division), Rewari (State of Haryana). The said suit was filed by the first respondent herein for a declaration that she was the owner in possession of the suit scheduled land situated at Village Maheshwari, Tehsil and District Rewari, and that the defendants in the suit had no right, title or interest over the same. She sought a further declaration that the compromise dated 13.08.2013 and the Award bearing No.225 of 2012 dated 13.08.2013 passed by the Lok Adalat were illegal,

full, void and not binding upon her. She also sought a consequential

permanent injunction restraining the defendants in the suit from interfering with her possession over the suit scheduled property.

The petitioner, being the first defendant in the suit, filed an application in Case No.342 of 2016 in the said suit under Order 7 Rule 11 CPC seeking rejection of the plaint. However, by order dated 04.10.2017, the learned Civil Judge (Junior Division), Rewari, dismissed the said application. Aggrieved thereby, the first defendant in the suit filed this revision petition.

By order dated 17.01.2018, this Court stayed further proceedings before the trial Court. Despite service of notice, the first respondent, the plaintiff in the suit, did not choose to enter appearance before this Court either in person or through Advocate.

Heard Shri Ajay Jain, learned counsel for the petitioner/first defendant.

Shri Ajay Jain, learned counsel, would contend that even if it was the case of the first respondent/plaintiff that the Award was secured from the Lok Adalat by playing fraud, her remedy would lie elsewhere as the civil Court would have no jurisdiction to entertain and adjudicate upon such a plea. He would place reliance on case law in support of his contention.

Perusal of the order under revision reflects that the aforestated aspect with regard to the jurisdiction of the trial Court was not specifically raised. However, it is well settled that challenge to a Lok Adalat award can only be on limited grounds and such a challenge would lie only before the High Court by way of a writ petition under Article 226

of the Constitution [*see State of Punjab and others V/s Jalour Singh and others (2008(2) SCC 660) and Bhargavi Constructions and another V/s Kothakapu Muthyam Reddy and others (2017 AIR(SC) 4428)*]. As lack of jurisdiction would go to the root of the matter, the trial Court ought to have been mindful of this aspect when an application was filed before it seeking rejection of the plaint. The order passed by the trial Court holding to the contrary, unmindful of the aforestated legal position, therefore cannot be countenanced.

The civil revision is accordingly allowed, setting aside the order dated 04.10.2017 passed by the learned Civil Judge (Junior Division), Rewari, presently under revision. In consequence, the application filed by the petitioner/first defendant under Order 7 Rule 11 CPC in case No.342 of 2016 in CIS No. 1652 of 2016 shall stand allowed and the plaint shall stand rejected. No order as to costs.

November 14 , 2019
Kang

(Sanjay Kumar)
Judge

Whether speaking/reasoned	Yes
Whether reportable	No