

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.917 OF 2016

Bikala Charan Sasmal

Petitioner

Mr. Arun Kumar Mishra, Advocate

-versus-

Nanda Sasmal and others

.... Opp. Parties

Mr. Purusottam Rana, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

20.07.2022

Order No.

8. 1. This matter is taken up through hybrid mode.
2. This CMP has been filed assailing the order dated 10th March, 2016 passed by learned Civil Judge (Junior Division), 1st Court, Cuttack in CMAPL No.185 of 2012 (arising out of C.S. No.101 of 2010), whereby an application under Section 151 C.P.C. was allowed by setting aside the order passed by Permanent and Continuous Lok Adalat, Cuttack.
3. Mr. Mishra, learned counsel for the Petitioner submits that C.S. No.101 of 2010 was filed by the present Petitioner for partition. On a settlement arrived between the parties, the matter was disposed of by the Permanent and Continuous Lok Adalat, Cuttack vide order dated 28th November, 2010. The Defendants- Opposite Party Nos.2, 3 and 5 alleging fraud played and impersonation made by the Petitioner, filed an application under Section 151 C.P.C. recall the said order. Learned Civil Judge (Junior Division), 1st Court, Cuttack on consideration of the

matter allowed the said application, which is under challenge in this CMP.

4. Mr. Mishra, learned counsel for the Petitioner relies upon the case law in ***Bhargavi Constructions and another -v- Kothakapu Muthyam Reddy and others***, reported in AIR 2017 SC 4428 and submits that an order passed by Permanent and Continuous Lok Adalat can only be challenged in a writ petition filed under Articles 226 and 227 of the Constitution before the High Court. Thus, the impugned order is without jurisdiction and is liable to be set aside.

5. Mr. Rana, learned counsel for the Opposite Parties submits that there is no dispute to the legal position as stated by the Petitioner. But the Defendants-Opposite Party Nos.2, 3 and 5 should not go remediless in challenging the order passed in the Permanent and Continuous Lok Adalat, Cuttack, which was an outcome of fraud and impersonation. Hence, he submits that liberty may be granted to the Opposite Parties to file a properly constituted writ petition assailing the order passed by the Permanent and Continuous Lok Adalat, Cuttack.

6. Taking into consideration the submissions made by learned counsel for the parties and the ratio decided by the Hon'ble Supreme Court in ***Bhargavi Constructions*** (supra), this Court sets aside the order dated 10th March, 2016 passed by learned Civil Judge (Junior Division), 1st Court, Cuttack in CMAPL No.185 of 2012 (arising out of C.S. No.101 of 2010).

7. It is, however, observed that the Defendants-Opposite Party Nos.2, 3 and 5, if so advised, may work out their remedy in accordance with law.

8. The CMP is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

