

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.9409 of 2022

(Through Hybrid mode)

Banita Rout and others ***Petitioners***

-versus-

Nabaghana Swain and others ***Opposite Parties***

Advocates appeared in this case :

For Petitioners: Mr. J. Mohapatra, Advocate

For Opposite Parties: Mr. S.S.K. Nayak, Advocate

CORAM: JUSTICE ARINDAM SINHA

JUDGMENT

11.10.2022

1. Mr. Mohapatra, learned advocate appears on behalf of petitioners and submits, his clients are the married daughters, deliberately left out from a purported compromise petition filed in the proceeding between the other co-sharers, who had instituted the proceeding behind back of his clients, in the Continuous and Permanent Lok Adalat (CPLA). He submits, there be direction upon the CPLA to add his clients as parties and thereupon facilitate settlement.

2. Mr. Nayak, learned advocate appears on behalf of opposite party nos. 1, 3, 10, 11, 12 and 14 and submits, the case was filed as a pre-litigation case under Permanent and Continuous Lok Adalat with Conciliation and Counseling

Centre Scheme, 2000. He points out from impugned order dated 14th July, 2006 that the case was registered and numbered as PL Case no.23 of 2006. PL, for pre-litigation. He submits, clause-3 of the scheme says, in event of settlement and disposal, it shall amount to a decree in accordance with provisions in section 21 of Legal Services Authorities Act, 1987. Parties to the PL case had duly arrived at a settlement and impugned order was made recording the disposal, thereby amounting to a deemed decree. In any event petitioners have moved Court on gross delay. There can be no interference.

3. On query from Court Mr. Nayak submits, the scheme operates in its field on facilitating conciliation, settlement and disposal. He reiterates, on disposal the order is deemed to be a decree. In the circumstances, the scheme does not confine jurisdiction of the CPLA to clause (b) under section 22A. Mr. Mohapatra in reply submits, subject matter of a partition suit is not covered under clause (b) in section 22A.

4. Section 28 provides for power of State Government to make rules. Such power has been mandated to carry out provisions of the Act. In the circumstances contention raised on behalf of opposite parties that the scheme is not confined to jurisdiction of Permanent Lok Adalats provided by clause (b) under section 22A, cannot be accepted. It is no matter that petitioners have come belatedly against impugned order passed in year 2006. There is presumption that petitioners were unaware since, they were not made parties to the settlement through the CPLA, resulting in disposal by impugned order.

5. Impugned order is set aside and quashed.
6. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks

