

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.876 of 2018**

Krishna Murari Tiwari Son of Late Sheo Murat Tiwari Resident of Village-
Jamurani, P.S.- Durgawati, District- Kaimur.

... .. Petitioners

Versus

1. Ram Krit Tiwari Son of Late Bachai Tiwari Resident of Village- Jamurani,
P.S.- Durgawati, District- Kaimur.
3. Shanti Devi, Wife of Late Rajendra Tiwari Resident of Village- Jamurani,
P.S.- Durgawati, District- Kaimur.
4. Sanjay Tiwari, Son of Late Rajendra Tiwari Resident of Village- Jamurani,
P.S.- Durgawati, District- Kaimur.
5. Radhe Shyam Tiwari, Son of Late Sheo Murat Tiwari Resident of Village-
Jamurani, P.S.- Durgawati, District- Kaimur.
6. Jawahar Tiwari, Resident of Village- Jamurani, P.S.- Durgawati, District-
Kaimur.
7. Sanjay Tiwari, Son of Late Rajendra Tiwari Resident of Village- Jamurani,
P.S.- Durgawati, District- Kaimur.
8. Tribhuwan Tiwari, Son of Late Sheo Murat Tiwari Resident of Village-
Jamurani, P.S.- Durgawati, District- Kaimur.
9. Gopal Tiwari, Resident of Village- Jamurani, P.S.- Durgawati, District-
Kaimur.
10. Lal ji Tiwari, Resident of Village- Jamurani, P.S.- Durgawati, District-
Kaimur.
11. Ganesh Tiwari, Resident of Village- Jamurani, P.S.- Durgawati, District-
Kaimur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Arabind Nath Pandey, Advocate
For the Respondent/s : None

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 01-09-2023**

Heard learned counsel for the petitioner.

2. No one appears for the respondents despite
notices having been validly served.

3. In this case, the petitioner is challenging the
award dated 03.04.2008 passed by Permanent Lok Adalat,



Kaimur at Bhabhua, in Title Suit No.72 of 2008, by which the suit property has been partitioned among the parties on the basis of a compromise petition.

4. It is the case of the petitioner that late Bachai Tiwari has seven sons, out of which, Patru Tiwari died issueless prior to filing of the suit. Sheo Janam Tiwari died issueless. The petitioner is the son of first wife of Sheo Murat Tiwari and pursuant to khangi partition / oral partition which took place in 1980 among the sons of late Bachai Tiwari, a piece of land fell in the share of Sheo Janam Tiwari, who being pleased with the services of the petitioner, executed registered gift deed bearing no.5409 dated 24.05.1982 in favour of the petitioner with respect to Khata no.118, 112, 71 & 65 measuring an area of 1 acre 72½ decimal.

5. According to the petitioner, subsequently in the year 2008, a Title Partition Suit was filed bearing T.S. No.72 of 2008 by the respondents. On their request, record of the Suit was sent to the Permanent Lok Adalat of Kaimur at Bhabhua. On 06.02.2008 a compromise petition was filed duly signed by both the parties before the Permanent Lok Adalat, in which the name of the petitioner was mentioned but subsequently the same was deleted by the parties although the



gifted land by Sheo Janam Tiwari was mentioned in the schedule. On the basis of the said compromise petition, the award was passed on 03.04.2008 although Sheo Janam Tiwari never put his thumb impression on the compromise petition, thereby the gifted land was allotted to other person.

6. It is also the case of the petitioner that after obtaining the award, he filed a Miscellaneous Case No.02 of 2008 for setting aside the award dated 03.04.2008 passed in Title Suit No.72 of 2008 but the same was withdrawn by the petitioner.

7. According to the petitioner, the award has been obtained by committing fraud and misrepresentation by excluding Sheo Janam Tiwari, who has executed registered gift deed in favour of the petitioner with respect to Khata No.118, 112, 71 and 65 measuring an area of 1 acre 72½ decimal of land and the said land has been included in the award of the Permanent Lok Adalat fraudulently.

8. It is the contention of the petitioner that the award passed by the Permanent Lok Adalat is illegal and without jurisdiction as 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 the provisions of the Legal Services Authorities Act, 1987.

9. In support of his submissions, he has relied upon a decision of the this Court rendered in the case of ***Dhirendra Pratap Singh v. Ravi Kant Singh*** reported in ***2014(2) PLJR 619*** and an unreported judgment dated 12.09.2019 passed by a co-ordinate Bench of this Court in ***C.W.J.C. No.20 of 2016 (Nizamuddin @ Saiyad Nizamuddin vs. Saiyad Shahnawaz Alam @ Laddan & Ors.)***.

10. I have considered the submissions of the petitioner and perused the materials on record.

11. It is an admitted position that respondents have not appeared in the matter despite service of notice and have also not denied the averments made in the writ petition. After going through the records, it appears that the land belonging to the petitioner has been included in the suit but he was not noticed and he has also not signed the alleged compromise petition filed in the Permanent Lok Adalat, which has resulted in passing of the award in Permanent Lok Adalat.

12. The issue whether Permanent Lok Adalat has jurisdiction to either entertain or deal with any dispute other than those provided under the Legal Services Authorities Act,



1987 has been decided in the case of ***Dhirendra Pratap Singh v. Ravi Kant Singh (supra)***. It will be relevant to quote paragraph nos. 9, 10, 11, 15 and 16 of the aforesaid decision, which read as under:-

- “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 VI-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."*

13. Similar view has been taken by a coordinate Bench of this Court in the case of ***Nizamuddin @ Saiyad Nizamuddin vs. Saiyed Shahnawaz Alam & Ors.*** (Supra). It will be relevant to quote paragraph nos. 7 to 9 of the aforesaid judgment, which read as under:-

"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 Lok Adalat established under sub-section (1) of Section 22B;*

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 telephone service; 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 Lok Adalat

1. Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalat 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 Lok Adalat 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 Lok Adalat; 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 Lok Adalat 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 any court, make an application to the Permanent Lok Adalat for the settlement of dispute; Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law; Provided further that the Permanent Lok Adalat 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 subsection (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a



Permanent Lok Adalat 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 application; (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 Lok Adalat, 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 Lok Adalat 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 Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, 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 Lok Adalat 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 Lok Adalat 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.”*

14. In the present case also, the subject matter of the Title Suit No.72 of 2009 does not relate to any of the public utility services, over which the Permanent Lok Adalat can exercise jurisdiction. Therefore, this Court is of the opinion that the award of the Permanent Lok Adalat is without



jurisdiction.

15. In view of the aforesaid discussions, this application is allowed. Accordingly, the award dated 03.04.2008 passed by Permanent Lok Adalat in Title Suit No.72 of 2008 is set aside.

(Sandeep Kumar, J)

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AFR/NAFR	A.F.R.
CAV DATE	N/A.
Uploading Date	12.09.2023.
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