

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.22 of 2018

1. Mamata Devi W/o Vidya Bhushan Rai
2. Vidya Bhushan Rai, S/o Om Prakash Rai
3. Shivam Kumar Rai
4. Harshit Kumar Rai Both (3) & (4) are minor sons of Vidya Bhushan Rai under the guardianship of their father namely Vidya Bhushan Rai All 1 to 4 are Resident of Village- Kritpura, P.S.- Buxar Mufassil, District- Buxar.

... .. Defendants/Petitioner/s

Versus

Sushila Devi alleged to be D/o Late Awadhesh Rai, W/o Late Keshav Prasad Rai, Resident of Village- Kritpura, P.S.- Buxar Mufassil, District- Buxar, at present Resident of Village- Bharauli, P.O.- Bharauli, P.S.- Narahi, District- Balia, U.P.

... ..Plaintiff/Opposite party

Appearance :

For the Petitioner/s	:	Mr. Shashi Shekhar Dwivedi, Sr. Counsel Mr. Parth Gaurav Mr. Ashutosh Kumar Pandey
For the Respondent/s	:	Mr.Nand Kishore Singh

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

7 13-12-2023 I have already heard the learned counsel for the parties.

2. The present civil revision application has been preferred against the order dated 23.11.2017 passed by the learned Sub-Judge-VIII, Buxar in Title Suit No. 198/2015, whereby the petition filed by the petitioner/defendant dated 05.08.2017 under Order VII, Rule 11(d) of the Code of Civil Procedure, hereinafter to be referred to as 'the CPC', was



rejected by the learned court below.

3. The brief fact of the case is that the plaintiff/opposite party instituted Title Suit No. 333/2015/198/2015 claiming that she is the only daughter of Late Awadhesh Rai and Late Lakshmina Devi. The land in suit came to the share of her father through a memorandum of partition dated 15.06.1995. During his lifetime, her father was in possession over that land and after his death, her mother came into possession over the disputed land. On 05.03.2015, the petitioner/defendant no.1, Mamta Devi threatened her possession over that land by stating that she had purchased the land described in Sch-2 from the mother of the opposite party/plaintiff Sushila Devi and the petitioner and her husband Vidya Bhushan Rai had gifted the land described in Sch-3 to their sons, namely, Shivam Kumar and Harshit Rai, who have been impleaded as defendant-3rd set in the suit. Vidya Bhushan Rai claims himself to be the adopted son of Late Awadhesh Rai and he denied that the plaintiff /opposite party is the daughter of Late Awadhesh Rai and Lakshmina Devi. Defendant Vidya Bhushan Rai claims the disputed land on the basis of an award of Lok Adalat which was passed on the basis of a compromise between Vidya Bhushan Rai and Awadhesh Rai in Lok Adalat Case No.21/2010. The



plaintiff/opposite party claims the award of the Lok Adalat as fraudulent and forged and claims a relief to declare the award of the Lok Adalat as null and void. Apart from claiming the relief of declaring the award of Lok Adalat as nullity, she also claimed relief to declare the sale deed alleged to be executed by the mother of the plaintiff in favour of the petitioner Mamta Devi and also the gift deed in favour of the defendant-3rd set as null and void.

4. The learned senior counsel for the petitioners submitted that the learned court below committed gross illegality in refusing the rejection of the plaint. He submitted further that Order VII, Rule II(d) not only creates bar in respect of a statutory law, but also creates a bar against a judicial decision. By relying upon a decision of the *State of Punjab and another Vs. Jalour Singh and others*, reported in (2008) 2 SCC 660, the learned senior counsel has submitted that an award of Lok Adalat can only be challenged under Articles 226 and/or 227 of the Constitution of India, and except that there is no any other remedy available to an aggrieved person except the remedies provided under Articles 226 or 227 of the Constitution of India. Paragraph-12 of the said decision is extracted hereinbelow:-

“12. It is true that where an award is made by the Lok Adalat in terms of a settlement



arrived at between the parties (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.

5. The other decision relied upon by the learned senior counsel is *Bhargavi Construction and another Vs. Kothakapu Muthyam Reddy and others*, reported in (2018) 13 SCC 480. He submitted that a judicial decision is also a law which creates a bar, as required under Order VII, Rule 11(d) of the CPP.



6. On the other hand, the learned counsel for the opposite party submitted that the learned court below did not commit any illegality in rejecting the petition filed by the defendant/petitioner under Order VII, Rule 11 (d) of the CPC, as the plaintiff brought the suit not only to declare the award of the Lok Adalat as nullity but also the sale deed in favour of petitioner no.1 alleged to have been executed by the mother of the plaintiff/opposite party to declare the same as null and void. The learned counsel has relied upon a decision of a Division Bench of this Court dated 6th November, 2009 in CWJC No. 14426 of 2009. He submitted that, after considering the decision of *Jalour Singh (supra)*, the Division Bench of this Court held as under:-

“..... As discussed and held earlier, powers of Lok Adalat are not co-extensive with that of civil courts who have full power to take evidence including oral evidence and also to exercise necessary powers under Section 151 of the Code of Civil Procedure. In such situation, in our view, nothing in the Code of Civil Procedure or other law can render the petitioners remediless and following the law noticed above in the case of Smt. Anita (supra), we hold that the petitioners will be entitled to invoke plenary jurisdiction of civil court to claim necessary relief on the ground of fraud or even on the grounds available to petitioner no.1. As a proposition of law it is well established that a person who was not a party



to the proceeding, will not be bound by any order passed therein unless he or she was impleaded through a representative like Karta or an authorized agent who may in appropriate situations represent others....”

7. In my view, the decision of *Jalour Singh and Bhargavi Construction (supra)*, do not squarely cover the instant case. The matter before the Hon’ble Apex Court was whether an award of Lok Adalat can be challenged through a civil suit or it is amenable under Articles 226/227 of the Constitution of India? Addressing that issue, the Hon’ble Apex Court held that an award of Lok Adalat is only amenable to Article 226 and/or 227 of the Constitution of India . In those two decisions, only the award of the Lok Adalat was challenged, but in the instant case, not only the award of the Lok Adalat but also the validity of the sale deed, which was not the subject matter of the Lok Adalat, was also challenged.

8. In my view, the learned court below did not commit illegality/irregularity or impropriety in refusing the application filed under Order VII, Rule 11 (d) of the CPC.

9. Accordingly, the revision application stands dismissed.

10. The LCR must be remitted back to the court below immediately for further proceeding.



11. The learned court below is directed to take efforts
for expeditious disposal of the suit.

(Nawneet Kumar Pandey, J)

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