

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-15020-2023

Date of decision: 17.07.2023

DALIP KAUR

.....Petitioner

VERSUS

LOK ADALAT AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Ajay Kamboj, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to the award passed by the Presiding Officer, Lok Adalat, Mandi Dabwali in Civil Suit No. 781 of 2012 titled as “*Jagtar Singh versus Dalip Kaur*” vide a consent decree dated 10.01.2013.

Learned counsel appearing on behalf of the petitioner submits that the petitioner had been defrauded by the plaintiff and that her thumb impressions had been obtained on a fraudulent pretext. She had filed a suit for declaration bearing Civil Suit No. 1364 of 2017 before the Civil Judge (Junior Division), Dabwali which was dismissed by the Civil Judge vide judgement and decree dated 27.04.2023 by holding that the judgment and decree passed by the Lok Adalat cannot be challenged by means of a separate civil suit.

The petitioner has thereafter filed the present writ petition. Plea of fraud is being raised by the petitioner for the first time before this Court. There is no occasion for this Court to examine the said plea

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unless the petitioner has approached the concerned Court. Needless to mention that, a fraud, if established, vitiates the award and that being a procedural review, the Court before upon the fraud is alleged to have been played would be the primary Court where such a plea is to be raised. The expression 'review' is used in two distinct senses, namely i) Procedural review-which is either inherent or implied in a Court or Tribunal to set aside an erroneous order passed under a misapprehension, and ii) a substantive review or a review on merits-when the errors sought to be corrected is of law & its apparent. Once the plea is being raised that the award was an outcome of fraud, the Court may, if the plea is established, recall its decision. The plea of fraud, as a means of seeking review of an award, as a mischief to avoid execution of an award is however impermissible when such power of review has not been conferred by the regulatory statute.

Faced with the above, counsel for the petitioner seeks withdrawal of the present writ petition so as to take recourse to the appropriate remedies available to her in accordance with law.

Disposed of as withdrawn with liberties as aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

JULY 17, 2023

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No