

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19179 of 2013

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1. Shyam Babu Sah and Anr Son Of Late Bhukhalu Sah Resident Of Ward No. 9, Nagar Panchayat Sheohar, P.O. - Sheohar, District - Sheohar
 2. Renu Gupta Wife Of Sri Shyam Babu Sah Resident Of Ward No. 9, Nagar Panchayat Sheohar, P.O. - Sheohar, District - Sheohar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ram Babu Sah Son Of Late Bhukhalu Sah Resident Of Ward No. 9, Nagar Panchayat Sheohar, P.O. - Sheohar, District - Sheohar
3. Lal Muni Devi Wife Of Sri Ram Babu Sah Resident Of Ward No. 9, Nagar Panchayat Sheohar, P.O. - Sheohar, District - Sheohar
4. Abhishek Kumar Son Of Sri Ram Babu Sah Resident Of Ward No. 9, Nagar Panchayat Sheohar, P.O. - Sheohar, District - Sheohar
5. Vivek Kumar Son Of Sri Ram Babu Sah Resident Of Ward No. 9, Nagar Panchayat Sheohar, P.O. - Sheohar, District - Sheohar
6. Sumitra Devi Wife Of Late Bhukhalu Sah Resident Of Ward No. 9, Nagar Panchayat Sheohar, P.O. - Sheohar, District - Sheohar
7. The Secretary, District Legal Services Authority, Sitamarhi, District - Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogendra Mishra, Sr. Counsel Ms. Swati Mishra, Adv
For the Respondent/s	:	Mr.Rajendra Kr. Jha

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 23-01-2024

Heard the parties.

2. By way of this writ petition, the petitioners are challenging the award dated 02.02.2011 passed by the Permanent Lok Adalat, Sitamarhi in a case bearing Case No. PL



(Misc.) 02 of 2011.

3. It is the case of the petitioners that in the year 2004 partition of family property was done between petitioner No. 1 and respondent No. 2 by way of Panch and accordingly Panchnama dated 30.09.2004 was prepared and the same was accepted by sisters and mother of petitioner No. 1. Based on the aforesaid Panchnama, petitioner No. 1 made an application for creation of Jamabandi of land which he got through Panchnama and a case bearing No. 171 of 2004-05 was instituted. In the said case respondent No. 02 raised objection against the said application but the same was rejected by the Circle Officer, Sheohar vide his order dated 04.01.2005. The Circle Officer allowed the petitioner's application for creation of Jamabandi and subsequently Jamabandi was created in favour of petitioner No.1 on the lands which he obtained through Panchnama. After creation of Jamabandi, the respondent No. 2 filed Mutation Appeal No. 02 of 2005 before the DCLR against the order dated 04.01.2005 which was allowed. Against the order of the DCLR, the petitioner preferred Mutation Revision, which is still pending.

4. It has also been alleged that the respondent No. 2 has earlier tried to grab the property of the petitioner on the



basis of the forged *Yadast Batwara* dated 20.05.2000 by way of filing Title Suit No. 241 of 2009 in the Court of learned Sub-Judge, 1st, Sitamarhi. The Said Title Suit is in respect of property bearing RS Khata No. 131, RSP No. 5151, in which respondent No. 2 is claiming 10 dec. of land. It is further alleged that respondent No. 3, 4 and 5 intended to grab the ancestral property falling in the share of petitioner No.2 by getting legal sanction by filing petition dated 05.01.2011 bearing PL (Misc) 02 of 2011 in the Court of Permanent Lok Adalat, Sitamarhi and in the said petition, a forged document related to *Yadast Batwara* dated 20.05.2000 was relied upon by the respondent No. 2 and 3 which bears no legal sanctity. In the said petition, it was prayed for the partition of whole property in three parts i.e. one each in favour of her two minor sons and one part in favour of respondent No. 2 and 3 jointly.

5. It is submitted by the learned senior counsel for the petitioners that in the said petition of the respondent before the Permanent Lok Adalat, the petitioners were not made as parties deliberately to conceal the relevant facts and on this score alone, the Lok Adalat ought to have dismissed the said application on the ground of non-joinder of necessary party.

6. It has further been submitted by the learned



senior counsel for the petitioners that on 02.02.2011, a compromise petition was filed by the parties in PL (Misc)-02/2011 in which it has been stated that the parties agreed to divide the said property in three parts and accordingly 3 Schedules were prepared showing the intention of parties in respect of division of the aforesaid property and the said compromise petition bears a Yadasht Batwara dated 02.05.2000 which is forged and was never in existence but the Lok Adalat accepted the same and prepared the award dated 02.02.2011 without noticing the petitioner No. 1.

7. Learned senior counsel for the petitioners further relies upon the Judgments of this Court passed in the cases of *Shri Niwas Rai Vs. Mahendra Rai* reported in **2014 1 PLJR 476**, *Raj Mangal Raut Ramani Vs. State of Bihar* passed in **L.P.A. No. 277 of 2017**, *Nawal Kishore Prasad Singh and Ors. Vs. The State of Bihar and Ors.* reported in **2016 1 PLJR 935** and *Lallan Pandey And Anr. Vs. State Of Bihar And Ors.* reported in **2023 6 BLJ 205** and has submitted that no partition suit can be filed in a permanent Lok Adalat directly as the permanent Lok Adalat has no jurisdiction to decide the civil disputes for which applications are being filed directly before the permanent Lok Adalats as has been held by this Court in the



aforesaid judgments and therefore the award dated 02.02.2011 may be quashed.

8. Learned counsel appearing for the private respondents has supported the impugned order and has submitted that the present award of the Lok Adalat which has been challenged by the petitioner is binding upon the parties and therefore the petitioner has all the liberty to challenge the same in a separate proceeding in accordance with law i.e. by filing a civil suit.

9. I have considered the submissions of the parties.

10. This Court has been repeatedly holding since long that permanent Lok Adalats have no jurisdiction to decide the civil matters and particularly the partition suits but, this Court is flooded with writ applications challenging the awards which are being obtained by the litigants in civil matters suppressing the facts and by not making the necessary persons as parties before the permanent Lok Adalats.

11. The consistent view of this Court has been reiterated in all the judgments relied upon by the petitioners.

12. The Division Bench of this Court in the case of *Nawal Kishore Prasad Singh and Ors. Vs. The State of*



Bihar and Ors. (Supra) in paragraph 4, 5 and 6 has held as follows :-

4. *We regret that although there have been standing instructions not to entertain property disputes in Lok Adalats, the Lok Adalats in the State of Bihar have a tendency to receive property disputes in Lok Adalats and to record compromise that too at a pre-litigation stage.*

5. *In absence of proof of title to the property; of identity of the parties and the genuineness of the claims, no decree for title or partition or possession can be passed. The very stage of proving one's case is obliterated when one approaches the Lok Adalat.*

6. *In the present case, it is obvious that the very petition before the Lok Adalat for partition of the suit property was collusive. A father of the minor children is a natural guardian. In the present case, although the mother of the minor children had died, the guardian of the minor children. Nevertheless, the Lok Adalat had audacity to accept the petition by the grandfather and his claim to be the guardian of the minor children. Ex-facie, the petition and the compromise were collusive. Such a collusive decree could not have been sustained by the learned Single Judge.*

13. This Court in the case of ***Lallan Pandey and Anr. Vs. State of Bihar and Ors. (Supra)*** in paragraph No. 8, 9, 11 and 12 has held as follows:-

“8. *This Court find force in the submission of learned counsel for the petitioners that even if the petitioners are said to have signed the*



compromise petition but still the award of the Permanent Lok Adalat has to be quashed in view of the fact that Permanent Lok Adalat can only resolve dispute in relation to public utility services 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. *Similar issue 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."*



11. Considering the aforesaid decisions of this Court and also considering the facts of this case, I am of the view that in this case the subject matter of the Partition Suit does not relate to any of the Public Utility Services, over which the Permanent Lok Adalat can exercise jurisdiction. A Court/Authority having no jurisdiction in the matter cannot be conferred jurisdiction by the parties with their consent and the order passed by the said Court/Authority having no jurisdiction over the subject matter is a nullity in the eye of law. Therefore, this Court is of the opinion that the impugned award of the Permanent Lok Adalat is without jurisdiction.

12. In view of the aforesaid discussions, this application is allowed. Accordingly, the award dated 27.09.2005 passed by Permanent Lok Adalat, Rohtas in Partition Suit No.502 of 2005 is set aside. However, the parties are given liberty to approach the competent Civil Court for partition of their property.

14. In view of the above discussions and also in view of the law laid down by this Court in the aforesaid judgments, this application is allowed.

15. Accordingly, the award dated 02.02.2011 passed by the Permanent Lok Adalat, Sitamarhi in a case bearing Case No. PL (Misc.) 02 of 2011 is hereby quashed.

16. It is expected that the permanent Lok Adalats of Bihar shall follow the law laid down by this Court and they will not pass unnecessary orders in civil matters which are



burdening this Court.

17. With the aforesaid observations, this application stands allowed.

(Sandeep Kumar, J)

Vikas/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

