

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.538 of 2022

1. Rina Devi, W/o- Late Sri Ram Pandey, D/o Late Paras Pandey, resident of Vill- Kharpakwa (Harkhauli), P.O. and P.S.- Mirganj, Dist- Gopalganj.
2. Sunita Devi @ Shivmala W/o Mahesh Pandey, D/o Late Paras Pandey, resident of Vill- Pandeychakia, P.O.- Narendra Dumar, P.S.- Bhorey, Dist- Gopalganj.
3. Suman Devi, W/o Triloki Chaubey, D/o Late Paras Pandey, resident of Vill- Khutawania, P.S.- Kuchaikot, Distt- Gopalganj.
4. Mamta Devi @ Pintu, W/o Hareesh Ojha, D/o Late Prasad Pandey, Vill- Pandeychakia, P.O.- Narendra Dumar, P.S.- Bhorey, Dist- Gopalganj.

... .. Petitioner/s

Versus

1. Sudhir Chaubey S/o Ashok Chaubey, Village- Khutawania, P.S.- Kuchaikot, Distt- Gopalganj.
2. Most. Laljhari Kuwar, W/o Late Paras Pandey, R/o Village- Sawanahi Patti, P.S.- Phulwaria, Dist- Gopalganj.
3. Ramvichari Devi, W/o Ashok Chaubey, D/o Paras Pandey, resident of Village- Khutawania, P.S.- Kuchaikot, Distt- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Upadhyay, Advocate
For the Respondent/s : Dr. Harendra Nath Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV JUDGMENT

Date : 25-07-2024

The present petition has been filed under Article 227 of the Constitution of India for setting aside the Award dated 26.10.2013 passed by the permanent Lok Adalat, Gopalganj in Title Suit No.377 of 2013.

2. Briefly stated the facts of the case are that the petitioners and the respondents have a common ancestor in Late Paras Pandey. The said Paras Pandey had five daughters, who are petitioner nos. 1, 2, 3, 4 and respondent no.3, respectively.



The respondent no.2 is the wife of Paras Pandey and respondent no.1 is the son of respondent no.3 and the maternal grandson of Paras Pandey. The property in hand of Paras Pandey came his share as joint family property after the death of his father Vindhyachal Pandey. The four sons of Vindhyachal Pandey partitioned the property and got their possession over their share/land and since then they have been living separately and cultivating their land separately. The said Paras Pandey had five daughters and their marriages were solemnized during the life time of Paras Pandey, who had no sons. So, he kept Sudhir Chaubey, the respondent no.1, son of his eldest daughter Ram Vichari Devi, for looking after him. Paras Pandey died on 07.06.2013 and, after his death, all the daughters claimed their shares and it was decided amongst the family members that an application be filed in the permanent Lok Adalat for distribution of shares amongst the sisters and their family members. Thereafter, Title Suit No.377/2013 was filed by the respondent no.1 as plaintiff. In the said case, a compromise was arrived at between the parties and shares were prepared for each sister/co-sharer and lands were given in the individual names of sisters after getting their signatures. The documents of compromise was filed before the learned Lok Adalat on 24.10.2013 and on



the basis of said compromise, learned permanent Lok Adalat passed its Award on 26.10.2013 which was signed by all the parties. The petitioners seek quashing of this Award by filing the present civil misc. petition.

3. The learned counsel for the petitioners submitted that the permanent Lok Adalat has no power to enter into any land dispute and it wrongly entertained the case of the respondents and the petitioners. The learned counsel further submitted that even the Award was obtained by the respondents by playing fraud upon the petitioners. The petitioners were not shown the schedules which were prepared for partition of the properties nor the respondent no.1 sought any opinion from the petitioners who were living at their matrimonial places. Thus, the petitioners were kept in dark and the land was not divided equally by the respondent no.1. However, the respondent no.1 told the petitioners that each one has got equal share in their ancestor's property and took their signatures on blank paper and prepared the compromise deed. The respondent no.1 prepared the schedules wherein Schedule 1 is related to respondent no.1 and the respondent no.1 kept most of the properties himself and Schedules 2 to 5 are with respect to the petitioners who are co-sharers in their vendors property. But



even in Schedules 2 to 5, there is no equal distribution/equal division of the share and this was an attempt by the respondent no.1 to make the petitioners quarrel amongst themselves. The learned counsel further submitted that the compromise decree is not valid as it was obtained on the basis of fraud and incorrect facts. The petitioners have assailed the same. The learned counsel further submitted that the Award was passed on 26.10.2013, but the petitioners had no knowledge about the same and their impression was that they have been allotted equal shares. Their hopes were dashed on seeing the compromise decree and they were cheated by the respondent no.1. Thus, learned counsel submitted that the Award of the learned permanent Lok Adalat is not sustainable either in law or even on facts and hence, the same be set aside.

4. *Per contra*, learned counsel appearing on behalf of the respondents submitted that the Award of the Lok Adalat is perfectly legal and is not tainted in any manner either on facts or on law. The learned counsel further submitted that the compromise was arrived at between the parties, who put their signatures on the compromise deed after understanding its contents. If the petitioners would have any objection, they could have raised the matter at the time of putting their signatures on



the compromise deed which was signed in presence of their lawyers, who identified the petitioners and their signatures. Even the Award was signed by all the petitioners. After passage of so many years, the petitioners could not be permitted to challenge the Award. Thus, learned counsel submitted that there is no merit in the instant petition and the same be dismissed.

5. Having regard to the facts and circumstances as well as submission made on behalf of the parties, the issue, which is before this Court, is whether the permanent Lok Adalat was within rights to dispose of suit on the basis of compromise and whether the compromise filed before the permanent Lok Adalat was vitiated due to fraud by one of the parties, namely respondent no.1.

6. Sections 19, 20, 21 & 22 of the Legal Services Authorities Act, 1987 (hereinafter referred to as the 'LSA Act') provide as follows :

“19. Organisation of Lok Adalats.—(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

(2) Every Lok Adalat organised for an area shall consist of such number of—

(a) serving or retired judicial officers; and

(b) other persons, of the area as may be specified



by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or, as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.

(3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(4) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

(i) any case pending before; or

(ii) any matter which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

20. Cognizance of cases by Lok Adalats.—*(1) Where in any case referred to in clause (i) of sub-section (5) of Section 19,--*

(i) (a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the court,

for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,



the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of Section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of Section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination: Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2) the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in



a court.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1)''.

21. Award of Lok Adalat.—*[(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of Section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870 (7 of 1870).]*

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

22. Powers of Lok Adalats.—*(1) The Lok Adalat [or Permanent Lok Adalat] shall, for the purposes of holding any determination under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—*

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document;

(c) the reception of evidence on affidavits;

(d) the requisitioning of any public record or document or copy of such record or document from any court or office; and

(e) such other matters as may be prescribed.

(2) Without prejudice to the generality of the powers contained in sub-section (1), every Lok Adalat [or Permanent Lok Adalat] shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.

(3) All proceedings before the Lok Adalat [or



Permanent Lok Adalat] shall be deemed to be judicial proceedings within the meaning of Sections, 193, 219 and 228 of the Indian Penal Code (45 of 1860) and every Lok Adalat shall be deemed to be a civil court for the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

22-A. Definitions.—*In this Chapter and for the purposes of Sections 22 and 23, unless the context otherwise requires,—*

(a) “Permanent Lok Adalat” means a Permanent Lok Adalat established under sub-section (1) of Section 22-B.

(b) “public utility service” means any—

(i) transport service for the carriage of passengers or goods by air, road or water; or

(ii) postal, 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.

22-B. Establishment of Permanent Lok Adalats.

—*(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 Adalats 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 service 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 be, the State Authority,

appointed by the Central Authority or, as the case may be, 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 such as may be prescribed by the Central Government”.

7. In the case of ***Lallan Pandey and Anr. Vs. The State of Bihar and Ors. (Civil Misc. No.13738 of 2019 disposed of on 22.09.2023)***, a Coordinate Bench of this Court in paragraph 11 has held as under :

“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 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”.

8. The said order was passed having regard to the fact that Lok Adalat has been constituted under Section 22 (B) of the LSA Act and could resolve the dispute in relation to public utility services only. However, in the case of ***Ram Pravesh Singh Vs. State of Bihar & Ors. (CWJC No.16830 of 2011)***, the learned Single Judge held that there is no permanent Lok Adalat under Section 22-B of LSA Act. The Lok Adalats which are functioning in Bihar are Lok Adalat constituted under Section 19 of the LSA Act. The said Lok Adalat constituted under Section 19 are made to sit continuously and, therefore, the Lok Adalats in every District is loosely called as Permanent Lok Adalat.

9. So, the issue boils down to the fact that whether the Lok Adalat is a permanent Lok Adalat under Section 22B or whether it is a continuous Lok Adalat under Section 19 of the LSA Act? If it is the permanent Lok Adalat under Section 22B, it would



have no jurisdiction to entertain the partition suit of the parties since the subject matter had no connection with the public utility services for which permanent Lok Adalats have been established. On the other hand, if it is continuous Lok Adalat which has been constituted under Section 19 of the LSA Act, then reading of Section 20 (2) of the LSA Act would reveal that if the parties agree and one of the parties makes an application to the court, the Lok Adalat shall proceed to dispose of the matter on the basis of compromise/settlement between the parties.

10. I agree with the view taken by learned Single Judge in ***Ram Pravesh Singh*** (supra) that the Lok Adalat which dealt with the matter could not be said to be a Lok Adalat constituted under Section 22B of LSA Act and it is a Lok Adalat only under Section 19 of the LSA Act as conjoint reading of the provisions from Section 19 to Section 22-B of the LSA Act makes it amply clear.

11. So far as reference of property dispute before the Lok Adalats is concerned, the learned Division Bench of this Court, in the case of ***Nawal Kishore Prasad Singh and Ors. Vs. The State of Bihar and Ors. (LPA No.1923 of 2011 decided on 27.11.2013)***, has directed to all Lok Adalats not to entertain the property disputes or the disputes involving contentious issues in



Lok Adalats, especially the property disputes. Violation of this direction was to be treated as contempt of this Court.

12. Though the award of the Lok Adalat is dated 26.10.2013 and the orders were passed on 27.11.2023 in **Nawal Kishore Prasad Singh** (supra), the legal position would not change. In its order, the learned Division Bench of this Court in the case of **Nawal Kishore Prasad Singh** (supra) has observed as under :

“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 state.

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 providing one’s case is obliterated when one approaches the Lok Adalat”.

13. So in the disputed matters, Lok Adalat cannot enter into and adjudicate the dispute with regard to property, but what would be the position if the parties themselves approached



and filed a compromise before the Lok Adalat? In such case, if the parties appear before the Lok Adalat at the pre-litigation stage and make a petition for passing an Award on the basis of compromise, even then, the Lok Adalat would not proceed in the matter considering the legal bar created by ***Nawal Kishore Prasad Singh*** (supra).

14. Therefore, it could be safely assumed that the bar against entertaining property dispute by the Lok Adalats continues and on this account, passing of the award in partition case filed before it runs counter to the direction issued in the case of ***Nawal Kishore Prasad Singh*** (supra).

15. So far as contention of the petitioners about unequal distribution of property is concerned, the same is a *prima facie* instance of the award not being passed with proper consent of the parties. It is the case of the petitioners that they were duped in putting their signature on the documents, if the common ancestor namely, Paras Pandey had five daughters, it is expected that their shares would be equal and in case of inequality, the same would be explained in the settlement deed itself. But the recital of the settlement deed is overwhelmingly in favour of the respondent no.1 and there are no signatures of the parties on either the pages of recital of settlement or the



schedules, which shows unequal distribution of the property.

16. In the light of these facts and circumstances and discussion made here-in-before especially the mandate of ***L.P.A.No.1923 of 2011 in Nawal Kishore Prasad Singh (supra)***, I do not think the impugned award dated 26.10.2013 passed by the Permanent Lok Adalat, Gopalganj in Title Suit No.377 of 2013 is sustainable and hence, the same is set aside.

17. Accordingly, the instant petition stands allowed.

18. However, the parties are at liberty to raise all issues before the competent forum in accordance with law.

19. The learned counsel for the petitioners is directed to remove all the defects pointed out by the office within four weeks.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	AFR
CAV DATE	01.07.2024
Uploading Date	25.07.2024
Transmission Date	NA

