

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21090 of 2021

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Mutun Sah @ Rameshwar Sah, Male, Aged about 44 years, Son of Late Ram Surat Sah Resident of Village- Kewa, P.S.-Chainpur, District- Kaimur at Bhabhua, Pin Code-821103 (Bihar).

... .. Petitioner/s

Versus

1. Kripa Narayan Sah Son of Jay Govind Sah Resident of Village- Kewa, P.S.-Chainpur, District- Kaimur at Bhabhua, Pin Code-821103 (Bihar).
2. Jay Govind Sah, Son of Late Ram Surat Sah Resident of Village- Kewa, P.S.-Chainpur, District-Kaimur at Bhabhua, Pin Code-821103 (Bihar).
3. Bechni Devi, Wife of Jay Govind Sah Resident of Village- Kewa, P.S.-Chainpur, District- Kaimur at Bhabhua, Pin Code-821103 (Bihar).
4. Sant Narayan Sah, Son of Jay Govind Sah Resident of Village- Kewa, P.S.-Chainpur, District- Kaimur at Bhabhua, Pin Code-821103 (Bihar).
5. State of Bihar, through Law Secretary, Deptt. of Law, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhishek, Advocate
For the State : Md. Raisul Haque, SC-10

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 16-01-2024

Heard the parties.

2. In view of affidavit of jointness, the service of notice on respondent nos. 2, 3 and 4 is also accepted to be valid.

3. The present application has been filed for issuance of an appropriate writ or writs for setting aside the Award dated 22.11.2006 passed by the Presiding Officer, Lok Adalat, Kaimur in Case No. 518 of 2006 by which the prayer of the respondent no.1 for partition of 1/8th share was allowed on the basis of compromise within 02 days from filing of the case.



4. Learned counsel for the petitioner submits that in the year 2006, Kripa Narayan Sah initiated a Title Partition Suit No. 518 of 2006, for partition of his 1/8th share in Schedule-Ka property as described in the plaint. The said case was filed on 20.11.2006 before the Lok Adalat, Bhabhua.

5. It has been submitted by learned counsel for the petitioner that the petitioner, being illiterate person used to operate Bank Account etc. by putting his thump impression but surprisingly on 20.11.2006 itself a compromise petition was filed by the respondents stating that the matter has been compromised and all the ancestral lands were partitioned and allotted to the respondents and only land which was purchased in the name of the petitioner was allotted to him even the ancestral house is not allotted to him.

6. Learned counsel further submits that on 22.11.2006 the Lok Adalat, Kaimur passed an order in the case and on the basis of compromise, an Award was prepared on 22.11.2006, which is impugned Award in the present writ application.

7. Learned counsel submits that all the exercise have been done behind the back of the petitioner and the petitioner had no knowledge about the filing the case and passing the Award by the Lok Adalat and in the month of November 2021,



the petitioner first time came to know about the abovesaid fact when the respondents have started making claim over the ancestral property as per Award ignoring the fact that no partition has ever done, legally, with respect to ancestral and joint family property and therefore he got the record and order of the Case No. 518 of 2006 and then the petitioner came to know about the illegality and fraud committed by the respondents and accordingly the present case is being filed.

8. It has been contended by learned counsel for the petitioner that in view of the provisions of Legal Services Authority Act and settled principle of law, it is well established that Lok Adalat has no such power to effectuate partition. The jurisdiction only is to deal with the matter which arises under the Public Utility Services and thus impugned Award is fit to be set aside.

9. Learned counsel further submits that the petitioner used to reside outside the State for earning his livelihood and therefore taking advantage of this situation, the respondents have committed fraud with the petitioner and have procured the Award which has no legal value as has been passed without jurisdiction.

10. Learned counsel has also submitted that the



impugned Award has been passed in haste and no proper opportunity was given to the petitioner for hearing and make objection in the case, therefore the impugned Award is fit to be set aside and entire proceeding of Case No. 518 of 2006 may be set aside as the same is without jurisdiction.

11. Learned counsel for the petitioner has relied upon a judgment of this Court in the case of **Nawal Kishore Prasad Singh vs. State of Bihar** reported as **2016(1) PLJR 935** and **Krishna Murari Tiwari vs. Ram Krit Tiwari** reported as **2023(4) PLJR 700**.

12. The respondent nos. 1 to 4 were issued notice but despite valid service of notice none has appeared.

13. It has been submitted on behalf of the State that they do not have any role in the matter.

14. I have considered the submissions of the petitioner and have also considered the judgments relied upon by learned counsel for the petitioner.

15. In the case of **Nawal Kishore Prasad Singh** (supra), this Court in paragraph nos. 5, 6 and 7 has held as follows:-

“5. 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.

6. 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.

7. 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 father was alive. The maternal grandfather could not have posed himself to be 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."

16. Similarly, this Court in the case of **Krishna Murari Tiwari** (supra) in paragraph nos. 12, 13 and 14 has held as follows:-

*"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 co-ordinate 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 Lok Adalat” 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, be 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 sub-section (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 applicant;



(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."

17. The application before the permanent Lok Adalat was a collusive application which was filed on 20.11.2006 and in the same a compromise petition was also filed on the same day along with the alleged signature of the petitioner who says that he gives his thumb impression and does not sign.

18. Be that as it may, in view of the law laid down by this Court that collusive applications filed before the permanent Lok Adalat for partition should not be entertained and also the fact that standing instructions have been given by this Court not to entertain property dispute in Lok Adalats, the award dated 22.11.2006 which appears to be collusive and is with regard to the property dispute is hereby quashed.



19. This application is allowed.

20. The original records of the case shall be returned
to the learned counsel for the State.

(Sandeep Kumar, J)

P. Kumar

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.01.2024
Transmission Date	

