



IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9253 of 2012

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1. Md.Mushlim, S/O Late Khuda Bux Mian R/O Vill-Bakhra, P.O.-Bakhara, P.S.-Anchal Saraiya, Muzaffarpur, Distt-Muzaffarpur
 2. Md. Jaibun Nisa W/O Majhrul Rahman & D/O late Khuda Bux Vill-Brahmpura, P.O.-Bakhra, P.S. & Anchal- Saraiya, Distt- Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar, through Secretary, Depptt. Of Law & Remembrancer, Bihar, Patna
2. Md. Muzlim, S/O Late Khuda Bux, R/O Vill+P.O.-Bakhra, P.S.- Saraiya, Distt- Distt-Muzaffarpur
3. Anwar Ali, S/O Md. Muslim Hussain resident of Vill-Bakhara, P.O.-Bakhra, Anchal-Sariya, Muzaffarpur
4. Gulam Sarwar, S/O Md. Muslim resident of Vill+P.O.-Bakhra, Saraiya, Muzaffarpur
5. Md. Ayub, S/O Md. Muslim resident of Vill+P.O.-Bakhra, Saraiya, Muzaffarpur
6. Md. Nishar Ahmad, S/O Md. Muslim resident of Vill+P.O.-Bakhra, Saraiya, Muzaffarpur
7. Md. Jamil Ahmad, S/O Md. Muslim resident of Vill+P.O.-Bakhra, Saraiya, Muzaffarpur
8. Md. Naseem, S/O Md. Muslim resident of Vill+P.O.-Bakhra, Saraiya, Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shyam Sunder Pandey, Adv.
For the State	:	Mr. Naman Nayale, Ac to AAG 10
For Private respondent	:	Mr. Ranjan Kumar Dubey, Adv.
		Mr. Kumar Gaurav, Adv.
		Mr. Sheshadri Kumari, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
CAV ORDER

14 23-04-2026

This writ application has been filed for quashing of order and Award dated 17.12.2007 passed by the Presiding Officer, Permanent Lok Adalat, Muzaffarpur in Pre-Litigation Case No. 379 of 2007 (Annexure 3 & 3/A to the writ application) and also for directing the opposite parties to act in





accordance with law as the same is void, illegal, inoperative and against the principles of natural justice.

2. Learned counsel for the petitioners submitted that Khuda Bux Mian (father of the petitioners) filed a Pre-Litigation Case No. 379 of 2007 before the Permanent Lok Adalat, Muzaffarpur, against one son namely, Anwar Ali and 5 grandsons (all five being sons of Md. Muslim (petitioner no. 1)) in which they falsely pleaded in their petition that the property mentioned in Scheduled I was the self acquired property. The aforesaid land is in possession of the applicant but there exists some differences between the family members of the applicant with regard to the partition of the properties. Hence, the prayer was made to partition the Schedule I property mentioned in the application filed before Permanent Lok Adalat. After sometimes both the parties filed a joint compromise petition. The learned Presiding Officer, Permanent Lok Adalat disposed of the Pre-Litigation Case No. 379 of 2007 on 17.12.2007 in terms of compromise petition.

3. Learned counsel for the petitioners submitted that all the heirs of Khuda Bux Mian were not made party in the aforesaid Pre-Litigation case and an Award was prepared in terms of compromise. It is further submitted that all the parties





to the said case put their signatures and L.T.I. on the Award, which was illegal, wrong and not binding upon the petitioners.

4. The father of the petitioners namely, Khuda Bux Mian died on 07.11.2008 leaving behind his two sons including the petitioner no. 1 and respondent no. 2 and a daughter, petitioner no. 2. Further submission is that, the petitioners had no knowledge about the said Pre-Litigation case filed by his late father nor had they any information about the disposal of the case in terms of compromise between the parties. The property mentioned in the Pre-Litigation case are/were ancestral property of late Khuda Bux Mian and in that view of the matter, all his heirs are entitled to get their respective shares. However, no share was allotted to the petitioners although, they are sons and daughter of late Khuda Bux Mian (the applicant in the Pre-Litigation case).

5. In the aforesaid circumstances, petitioner no. 1 was constrained to file a partition suit bearing Partition Suit No. 563 of 2008 in the Court of learned Sub Judge-I, Muzaffarpur, impleading all the heirs of his deceased father and requested for partition of joint family property with respect to 2/5th share to petitioner no. 1 and respondent no. 1 and 1/5th share to petitioner no. 2 in the property and accordingly, for preparation





of preliminary decree. In the aforesaid partition suit, the defendants appeared and filed their written statement denying the claim of the plaintiff/petitioner no. 1. Learned counsel for the petitioners further submitted that respondent no. 3 namely, Anwar Ali and respondent no. 4 namely, Md. Gulam Sarwar although were party to the said Pre-Litigation Case before the Presiding Officer, Permanent Lok Adalat, Muzaffarpur but have no *locus standi* to enter into compromise with their grandfather in respect of ancestral joint family property during lifetime of their parents. It is further contended that the petitioners have great apprehension that on the strength of Award passed by the Pre-Litigation Case, the respondents will contest the partition suit. The said Award passed by the Presiding Officer, Permanent Lok Adalat, Muzaffarpur is without any jurisdiction and the petition for partition of the said property before Lok Adalat was collusive and the compromise petition was also collusive therefore, such a collusive Award could not have sustained in the eye of law.

6. On the other hand, learned counsel for respondent no. 4, who is one of the sons of Md. Muslim (petitioner no.1) and grandson of late Khuda Bux Mian has submitted that the present writ application is not maintainable in view of the fact





that for the same piece of land, petitioner no. 1 has already filed Title Suit No. 563 of 2008 in the Court of learned Sub Judge-I, Muzaffarpur for partition of the suit land to the extent of 2/5th share. The aforesaid suit was filed much before filing of the present writ application. It is further submitted that since the petitioners were not party to the Pre-Litigation Case before Permanent Lok Adalat and at that time, petitioners had no locus in the property, in question, as such, they have no right to challenge the Award. Admittedly, the property, in question, was self acquired property of father of the petitioners and grandfather of the deponents. As per the Mohammedan Law, during lifetime of father, sons, daughters and other heirs have no right to claim the property. It is apparent from the Survey Khatian, the land, in question, has been recorded in the name of Khuda Bux Mian and petitioners had full knowledge about the Award passed in terms of compromise between the parties because respondent no. 4 to 8 are sons of petitioner no. 1, who were party in the Pre-Litigation Case as opposite party nos. 2 to 6. Moreover, the title suit was filed by petitioner no. 1 immediately after passing of the Award and the present writ application has been filed challenging the said Award after five years of the Award. Therefore, the writ application is not





maintainable in the aforesaid facts and circumstances.

7. Having considered the rival submissions of the parties, it is apparent from the pleadings that petitioner no. 1 filed title suit for partition before the Sub Judge-I, Muzaffarpur which is pending for final adjudication. The specific case of the petitioners is that the land, in question, is ancestral property of late Md. Khuda Bux Mian. Each heirs of late Khuda Bux Mian has definite share. The Permanent Lok Adalat had no jurisdiction, at all, to entertain the suit or application for the partition of property in dispute. The said petition was directly filed before the Permanent Lok Adalat for partition. The suit property is of the applicant/late Khuda Bux Mian.

8. It is well settled law that during lifetime of father, other heirs have no right to claim any share in the property whether ancestral or self acquired. Petitioners have no locus to challenge the said Award. Moreover, the petitioners were not party to the said Pre-Litigation Case or Award, therefore, the said Award is not binding upon them. However, the Award becomes a nullity if it is passed without jurisdiction or in violation of the legal procedures prescribed by the Legal Services Authorities Act, 1987. 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. The Permanent Lok Adalat has jurisdiction even to adjudicate upon the dispute between the parties but only with respect to pre-litigation matters when the dispute relates to one of the public utility services. The Award passed by the Permanent Lok Adalat would not come under the provision of Section 22A(b), if any claim raised on the basis of Award has legal consequences.

9. It is to be noted that Khuda Bux Mian was the sole proprietor (either self acquired or ancestral property) and according to Mohammedan Law he was free to dispose of his property in the manner he likes and any document executed by him including compromise petition filed before Permanent Lok Adalat would be a piece of evidence to establish that he gave property to the persons of his choice albeit the genuineness of the document which is to be tested in Partition Suit No. 563 of 2008.

10. Accordingly, in view of the aforesaid discussions and observations, the writ application is disposed of.

(Khatim Reza, J)

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