



IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.106 of 2017

Hirawati Kuar, wife of Late Raj Bansh Singh, resident of Village - Mohania,
P.S. - Mohania, District - Kaimur Bhabua at present Barewa, Varanasi U.P.
... .. Appellant/s

Versus

1. Vijay Kumar Gupta, son of Late Ram Belas Sah, resident of Village - Darwa, P.O. - Darwa, P.S. - Mohania, District - Kaimur , Bhabua.
2. Laxman Singh, son of Late Prabhu Narayan Singh, resident of village - Masadhi, P.O. - Deohaliya, P.S. - Ramgarh, District – Kaimur, Bhabua.
3. Bijendra Singh @ Brajendra Singh, son of Late Maryad Singh, resident of village and P.O. - Deohaliya, P.S. - Ramgarh, District – Kaimur, Bhabua.
4. Most. Inrawati Kuar, wife of Late Raj Narain Singh, resident of village, P.O. and P.S. - Mohania, District - Kaimur Bhabua.
5. Nirmala Kuar, wife of Late Ashok Kumar Singh, resident of village, P.O. and P.S. - Mohania, District – Kaimur, Bhabua.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Anju Narain, Advocate
Mr. Anant Kumar Sinha, Advocate
Mr. Umesh Kumar Roy, Advocate
Ms. Annapurna Sinha, Advocate

For the Respondent no. 3 : Mr. Md. Waliur Rahman, Advocate
Mr. Om Prakash, Advocate
Mr. Ravi Shanker Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

14 20-01-2026 Heard Mr. Rajendra Narain, learned senior counsel assisted by Ms. Anju Narain learned counsel appearing on behalf of the appellant and Mr. Md. Waliur Rahman, learned counsel appearing for respondent no. 3.

2. This Second Appeal has been preferred against the judgment and decree of affirmance dated 09-11-2016 passed by the learned Additional District and Sessions Judge-VI, Kaimur





at Bhabua, in Title Appeal No. 74 of 2011, whereby the learned First Appellate Court upheld the judgment and decree dated 27.09.2011 passed by the learned Munsif, Bhabua in Title Suit No. 03 of 2010, whereby the plaint has been rejected under Order VII Rule 11 of the Code of Civil Procedure (hereinafter referred as ‘CPC’).

3. The plaintiff is the appellant in the instant Second Appeal.

4. The plaintiff had filed suit for permanent injunction against the defendants/respondents. The plaintiff/appellant had claimed title and possession over the suit land on the basis of Award passed in Title Suit No. 705 of 2007 by the Permanent Lok Adalat, Bhabhua on the basis of compromise entered between the parties. Total 2.37 acres land was allotted to the plaintiff which was self-acquired property of her deceased husband.

5. The defendant 1st set threatened the plaintiff to dispossess her from the suit land so the necessity of the suit arose for permanent injunction to restrain the defendants from causing any obstruction/hindrance in the peaceful enjoyment of the property by the plaintiff.

6. On summon, defendant no. 4 appeared and filed a





petition under Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint on the ground that the Award passed by the Permanent Lok Adalat on the basis of compromise between the parties was set aside by the Permanent Lok Adalat itself on 04.11.2010 in Miscellaneous Case No. 8 of 2008. Therefore, the plaintiff has no case on the basis of Award passed by the Permanent Lok Adalat and also contended that the plaintiff has no cause of action for the suit.

7. Upon considering the averments made in the plaint, the learned trial court allowed the application filed under Order VII Rule 11 of the Code of Civil Procedure and rejected the plaint of the plaintiff/appellant as the plaintiff has no cause of action for the suit.

8. Aggrieved by the judgment and decree dated 27.09.2011 passed in Title Suit No. 3 of 2010 by the learned Munsif, Bhabhua, the plaintiff/appellant has preferred Title Appeal No. 74 of 2011.

9. After considering the pleadings mentioned in the plaint, the learned appellate court affirmed the order of trial court by the judgment and decree dated 09.11.2016 passed in Title Appeal No. 74 of 2011 and held that since at the time of filing of the suit i.e. 08.01.2010, Miscellaneous Case No. 8 of





2008 was already filed in the Permanent Lok Adalat for cancellation of the Award which was passed on the basis of compromise and the same was set aside on 04.11.2010, which was effective at the time of passing of order. Further, subsequent order dated 15.03.2012 passed in Miscellaneous Case No. 04 of 2011 by the Permanent Lok Adalat was not in existence at the time of order since the order for rejection of the plaint was passed on 27.09.2011. Accordingly, the appeal was dismissed and the judgment and order of trial court was affirmed.

10. Mr. Rajendra Narayan, learned senior counsel for the appellant submits that the learned courts below have failed to appreciate that in case of rival claims of the right, title and possession, when the plaintiff asserts it and the defendants deny it, the only legal course would be to enter into evidence and then on the basis of pleadings and evidence, issues could be decided but not on the basis of petition under Order VII Rule 11 CPC for rejection of plaint. Learned senior counsel further submitted that for consideration of petition under Order VII Rule 11 CPC, the plaint has to be read in a meaningful manner and not in a mechanical manner. But in the present case, the courts below have not, at all, taken into consideration the averments of the plaint in a meaningful manner which clearly contained that the





plaintiff has right, title and possession which she got after the death of her husband and his brothers admitted and accepted it. The reference to the Award of the Permanent Lok Adalat in Case No. 705 of 2007 was only an additional information. If the defendants contradicted in the pleadings, then the courts below were legally bound to frame issues and enter into evidence to decide the suit. It is further submitted that the aforesaid Award was passed on compromise filed by the parties. Section 21 of Legal Service Authorities Act provides that every award of Lok Adalat shall be deemed to be decree of a Civil Court, i.e. shall be final and binding on the parties to the dispute, and that no appeal shall lie against it. Section 22(E) of Legal Services Authorities Act reads with award of Permanent Lok Adalat, similarly declares that every award shall be final and binding on the parties and persons claiming under them; shall be deemed to be a decree of Civil Court and shall not be called in question in any original suit, application or execution proceeding. Both provisions reflect a common legislative intent that such awards are to attain finality, are not available in the ordinary sense and are to operate as decree only for the limited purpose of execution. If an award is made by a Lok Adalat in terms of a settlement between the parties, it is final and binding and





executable as a decree and that no appeal lies against it.

11. Learned senior counsel submits that the basis of rejection of plaint is that the award passed by the Permanent Lok Adalat in Case No. 705 of 2007 was set aside by it on 04.11.2010 in Miscellaneous Case No. 8 of 2008 while the said award was challenged in Miscellaneous Case No. 4 of 2011 which was pending at the time of passing of the order of rejection of plaint dated 27.09.2011 which was subsequently allowed on 15.03.2012 by which the said award passed by the Permanent Lok Adalat was revived. This fact has not been considered by the lower appellate court before passing of the judgment on 09.11.2016 in Title Appeal No. 74 of 2011.

12. Learned senior counsel further submits that at the stage of exercise of power under Order VII Rule 11 of CPC, the stand of the defendant in the written statement or in the application for rejection of the plaint could not be looked into. It is only if the averments in the plaint *ex-facie* do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law, the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of trial. The plaint would not have been rejected as prayed by the defendant under the provision of Order VII Rule 11 of CPC





especially when the suit is filed for permanent injunction only.

13. Per contra, the learned counsel for the defendant/respondent no. 3 submits that the suit was filed by the plaintiff for permanent injunction to restrain the defendants from interfering peaceful possession of the suit land which was obtained through award passed by the Permanent Lok Adalat in Title Suit No. 705 of 2007 on compromise between the parties by which the entire land 2.37 acres was allotted to the plaintiff which was set aside by the order dated 04.11.2010 passed in Miscellaneous Case No. 8 of 2008 by the Permanent Lok Adalat during the pendency of Title Suit.

14. Learned counsel for the respondent no. 3 submits that Title Suit No. 705 of 2007 was directly filed by the plaintiff/appellant before the Permanent Lok Adalat with regard to the title of 2.37 acres of the plaintiff which was fraudulently obtained through compromise which is illegal and without jurisdiction. The Permanent Lok Adalat can only resolve dispute in relation to public utility services including such service, which the Central or State Government may declare in the public interest to be public utility services under the provisions of Legal Services Authorities Act, 1987. The jurisdiction of Permanent Lok Adalat has been considered in the case of **Lalan**





Pandey and Ors. vs. State of Bihar Through Collector and Ors. (C.W.J.C No. 13738 of 2019) wherein this Court, after considering the catena of decisions of the Hon'ble Supreme Court, has held that "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 its 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". Reliance has been placed in the case of ***Dhirendra Pratap Singh Vs. Ravi Kant Singh*** reported in ***(2014) 2 PLJR 619*** wherein this Court has held in Paragraph Nos. 9, 10, 11, 15 & 16 which read as under:-

"9. From the conjoint reading of Sections 22-A(a), 22-B and 22-A(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 22-A(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 10.6.2011 passed by “Permanent Lok Adalat” Kaimur at Bhabhua, in Miscellaneous Case No. 6 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-IV-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 10.6.2011 passed by “Permanent Lok Adalat” Kaimur at Bhabhua in Miscellaneous Case No. 6 of 2004 is set aside.”

15. Thus, the subject matter of the injunction suit does not relate to any public utility services, over which the Permanent Lok Adalat can exercise jurisdiction.

16. Learned counsel for the defendant/respondent no. 3 submits that the reliefs sought for possession over the suit land on the basis of Award passed by the Permanent Lok Adalat is barred under Order VII Rule 11 CPC. Hence, there is no occasion to interfere with the concurrent finding of the courts below.

17. Having considered the rival submissions of the parties and averments made in the plaint, it would appear from paragraph no. 1 of the plaint that the suit land is part of Award





passed by the Permanent Lok Adalat in Case No. 705 of 2007 whereby the plaintiff has right, interest and possession over the suit land. It is further pleaded in paragraph no. 7 of the plaint that the plaintiff has exclusive title and possession over the land measuring 2 acres 37 decimals and further in paragraph no. 8, the plaintiff's case is that the defendant 1st set is trying to dispossess from the Schedule-Ka of the plaint and prayed that defendant 1st party be restrained by permanent injunction. The cause of action for the suit arose on 31.12.2009 when the defendant 1st set refused to interfere with the peaceful possession of the plaintiff. It is apparent from the plaint that the plaintiff claimed title and possession on the basis of Award passed by the Permanent Lok Adalat on compromise between the parties with regard to the entire land mentioned in Title Suit No. 705 of 2005 filed directly before the Permanent Lok Adalat. The said Award passed by the Permanent Lok Adalat is without jurisdiction and Permanent Lok Adalat had no jurisdiction, at all, to entertain the suit filed by the plaintiff before the Permanent Lok Adalat directly. There was no reference by the Civil Court to the Permanent Lok Adalat for deciding the issue involved in Title Suit No. 705 of 2007. The said Award passed by the Permanent Lok Adalat is judgment in nullity. Without any





jurisdiction, 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 claim of the plaintiff is based on Award passed by the Permanent Lok Adalat, who had no jurisdiction. 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). The suit was filed by the plaintiff/appellant for permanent injunction based on Award passed in Case No. 705 of 2007 by the Permanent Lok Adalat and is a clear abuse of process of law as vexatious suit.

18. In the aforesaid facts and circumstances of the case and materials on record, I am not inclined to interfere with the concurrent findings of the courts below and no question of law, much less, substantial questions of law, arises for consideration in the instant Second Appeal.

19. Accordingly, this Second Appeal is dismissed at the stage of hearing under Order XLI Rule 11 of the Code of Civil Procedure.





20. Pending Interlocutory Applications, if any, shall
stand disposed of.

(Khatim Reza, J)

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