

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.665 of 2018

In

Civil Writ Jurisdiction Case No.2395 of 2009

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Rameshwar Chaubey, Son of Late Radha Mohan, resident of Village, Post Office and Police Station- Brahampur, District- Buxar.

... .. Appellant/s

Versus

1. The State of Bihar through the Collector, Buxar.
2. The Senior Superintendent of Police, Buxar.
3. The Anchal Adhikari, Anchal Brahampur, District Buxar.
4. The Director Consolidation, Bihar, Patna.
5. The Consolidation Officer, Brahampur, District Buxar.
8. Rabindra Upadhyay alias Barak Upadhyay.
9. Surendra Upadhyay alias Chhote Upadhyay.
10. Satyendra Upadhyay alias Munna Upadhyay.
11. Harendra Upadhyay alias Guddu Upadhyay.
12. Yogendra Upadhyay. All 8 to 12 are the minor Sons of Triveni Upadhyay under the Guardianship of their mother Dulhin Savitri Devi, wife of Triveni Upadhyay. All residents of Village Brahampur, Post Office and Police Station Brahampur District- Buxar.
13. Most. Rajwanti Devi, W/o late Rajendra Mishir, Resident of Village- Deokali (Kottiya), P.O. and P.S.- Brahampur, Dist- Buxar.
13. Hare Ram Mishir, Son of late Rajendra Mishir, Resident of Village- Deokali (Kottiya), P.O. and P.S.- Brahampur, Dist- Buxar.
13. Rajnarayan Mishir, Son of late Rajendra Mishir, Resident of Village- Deokali (Kottiya), P.O. and P.S.- Brahampur, Dist- Buxar.
13. Jagnarayan Mishir, Son of late Rajendra Mishir, Resident of Village- Deokali (Kottiya), P.O. and P.S.- Brahampur, Dist- Buxar.
14. Muneshwar Chaubey, Son of Radha Mohan Chaubey, resident of Village and Post Office and Police Station Brahampur, District- Buxar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Kamal Nayan Choubey, Sr. Advocate
Mr. Rakesh Kumar Shrivastava, Advocate
Mr. Dineshwar Pandey, Advocate
Mr. Shashank Shekhar Dubey, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam, AAG-12
Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 20-03-2025

Heard the learned counsel for the parties.

2. The challenge in this appeal is to the judgment dated 24.02.2009 passed in C.W.J.C. No. 2395 of 2009, whereby the writ petition preferred by the appellant was dismissed with an observation that it would be open for the appellant to seek appropriate relief by filing a Title suit.

3. The records reveal that a Title suit was filed by respondent No. 6 in which the appellant was not impleaded, though he was a necessary party; but respondent No. 13 was impleaded. The matter was



referred to the *Lok Adalat*, where on the basis of a compromise, an award was passed, which substantially and directly affected the title of the appellant.

4. The background facts necessary for disposal of this appeal are that the property in question, which the appellant claims to be his ancestral property, was purchased some times in the year 1924 by a registered sale-deed. Over a period of time, the names of the ancestors of the appellant and of him was mutated and recorded in the Revenue records. According to the appellant, an attempt was made in the past, during survey operations, by respondent No. 6 to have the name of the appellant expunged, but such efforts were foiled by the order of the Deputy Director, Consolidation, some times in the year 2008. This lent finality to the matter and the name of the appellant remained on the records with the title of the appellant remaining undisturbed.

5. Thereafter, a Title suit was filed in the year 2002 *vide* Title Suit No. 454 of 2002, in which a



compromise was collusively obtained before the *Lok Adalat* on 30th of August, 2003. The appellant was never made party to the said suit nor did he have any notice or information about the same. It was only on the basis of the afore-noted consent decree that respondent Nos. 6 and 13 started asserting their rights. No sooner, the appellant came to learn about it, a writ petition *vide* C.W.J.C. No. 2395 of 2009 was filed for setting aside the award of the *Lok Adalat*.

6. The learned counsel for the respondents has submitted that *Lok Adalat* had only approved the compromise decree by the Trial Court and, therefore, it may not be taken as an award of the *Lok Adalat*; rather a decree of the Civil Court and in that event, the appellant has a forum of preferring a Title suit for vindication of his rights.

7. Though Mr. Choubey, the learned Senior Counsel appearing for the appellant wanted this Court to get into the merits of the case, but we, on the perusal of



the provision contained in Section 22E (4) of the Legal Services Authorities Act, 1987 (*in short the Act of 1987*), are of the view that relegating the appellant in this circumstance to the Civil Courts by the learned Single Judge was not appropriate.

8. Section 22E of the Act of 1987 reads as follows :-

22E. Award of Permanent Lok

Adalat to be final.-(1) *Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.*

(2) *Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.*

(3) *The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.*

(4) *Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution*



proceeding.

(emphasis supplied)

(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

9. Sub-Clause (4) of Section 22E of the Act of 1987 makes it abundantly clear that every award made by the Permanent *Lok Adalat* under the Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

10. A party cannot be rendered remediless, more so when fraud is alleged.

11. There is no dispute that in the Title Suit No. 454 of 2002, the appellant was not a party.

12. Even assuming that entire compromise proceeding took place before the Trial Court, but since the award of the *Lok Adalat* finalized the issue and compromise was effected, then also, such award could not have been challenged in any suit or proceeding and in



that event, relegating the appellant to the Civil Court for the needful was absolutely unjustified and against the provisions of the Statute.

13. The appellant had a right to contest under Article 227 of the Constitution of India.

14. Expressing reservation on this view of ours, Mr. Shailendra Kumar Singh, the learned Advocate for the respondents has referred to a judgment of the Supreme Court in ***State of Punjab & Anr. Vs. Jalour Singh & Ors. : (2008) 2 SCC 660***, wherein the following observations were made in paragraph 12, which reads as thus:-

"12. *It is true that where an award is made by the Lok Adalat in terms of a settlement arrived at between the parties (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under*



Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.”

15. We fail to understand as to how the dictum of the Supreme Court in ***Jalour Singh*** (supra) can be read as rendering a third party to a suit in which there was a compromise affirmed by the *Lok Adalat* would be rendered remediless, especially when no suit or appeal could be filed against an award passed by the *Lok Adalat*.

16. What paragraph 12 of the afore-noted judgment reflects is that an award of the *Lok Adalat* would be binding on the parties to the suit or the



proceedings in *Lok Adalat* and it becomes executable as if it is a decree of the Civil Court against which no appeal lies to any Court.

17. In this context, it was explained that if any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds.

18. The other reference in the paragraph, referred to above, is in the context of no compromise or settlement having been signed by the parties and the order of the *Lok Adalat* not referring to any settlement but directing the respondent therein to either make payment, if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the *Lok Adalat*.

19. The misgiving on the part of the respondent, presently, is on the basis of the partial reading of paragraph 12 of the judgment referred to



above.

20. If the parties to a proceeding in *Lok Adalat* cannot be rendered remediless, so would be case with a third party, whose rights are substantially and directly affected by the award of the *Lok Adalat* in which he was not a party.

21. Since no proceeding can be maintained in any Court whatsoever against the award of the *Lok Adalat*, the only way in which the defect could be remedied or the rights of the third party could be vindicated, is by approaching the High Court under Article 227 of the Constitution of India.

22. This right of the appellant was not appropriately dealt with by the learned Single Judge.

23. In the afore-noted circumstances, we have no option but to set aside the judgment of the learned Single Judge dated 24.02.2009 passed in C.W.J.C. No. 2395 of 2009 and restore the writ petition.

24. The writ petition is revived.



25. The learned Single Judge who will hear the writ petition shall decide the issue raised therein.

26. We also deem it appropriate here to mention that before the filing of the present appeal, and in obedience to the judgment passed by the learned Single Judge, a civil suit had been filed by the appellant, but a petition for withdrawal of the suit has been filed long time ago. It would not be necessary to state that the appellant would be required to withdraw the suit in question, if not already withdrawn, as it would not be in the fitness of things that two parallel proceedings be allowed to be continued.

27. Till such time that the writ petition is decided, the *status quo* with respect to the land/property in question shall be maintained.

28. The records of the original writ petition has been destroyed because of the passage of time. However, to the advantage of the parties, a photocopy of the writ petition is available on record. The Registry is



directed to reconstruct the file before being placed before
the learned Single Judge.

29. The appeal stands disposed off
accordingly.

30. Interlocutory Application/s, if any, also
stands disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sauravkrsinha/
Praveen-II-

AFR/NAFR	NAFR
CAV DATE	NA
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