

(2018) 09 CHH CK 0172

Chhattisgarh High Court

Case No: Writ Petition (C) No. 3017 Of 2017

Basant Kumar

APPELLANT

Vs

Kishan Chaturvedi And Ors

RESPONDENT

Date of Decision: Sept. 11, 2018

Hon'ble Judges: Prashant Kumar Mishra, J

Bench: Single Bench

Advocate: B.P. Sharma, Anjinesh Shukla, Prachi Agrawal, Malay Kumar Bhaduri

Final Decision: Allowed

Judgement

Prashant Kumar Mishra, J

1. Petitioner would assail the legality, validity and propriety of the award passed by the Lok Adalat, Bench No.19, District Court, Raipur, on 6-12-2014

in civil suit No.58-A/2014 (Girija Bai & Others v Gajraj & Another) declaring that the suit land bearing khasra No.349 area 0.04 acres, khasra No.414

area 1.39 acres, khasra No.674 area 3.04 acres would belongs to plaintiffs Girija Bai, W/o Late Shri Bhagat Ram; Kishan Chaturvedi, S/o Late Shri

Bhagat Ram; Kishna Bai, D/o Late Shri Bhagat Ram; Bimla Bai, D/o Late Shri Bhagat Ram; and Kishun Chaturvedi, S/o Late Shri Jhumuk Lal and

the respondent Gajraj would have no right or title over the suit property.

2. The present writ petition has been preferred in respect of land bearing khasra No.414/1 situated at village Serikhedi, PC No.35, RI Circle

Mandirhasaud, Tahsil Arang, District Raipur, over which the petitioner's name is recorded in the record of rights and maintenance khasra. Claiming

the ownership on the property, on the basis of said document, the petitioner would contend that without impleading him in the suit and without giving

him any opportunity of hearing the decree has been passed including the petitioner's land and the parties have used the decree of the Lok Adalat by projecting as if the petitioner was also a party to the suit and in his presence the decree has been passed declaring ownership of the

plaintiffs/respondents No.1 to 4, as one of the plaintiff Girija Bai has died during pendency of the petition.

3. A perusal of the order passed by the Tahsildar, Raipur, on 1-3-2017 and 30-11-2017 would indicate that on the basis of decree passed by the Lok

Adalat the petitioner's name has been deleted from the revenue record and yet again the petitioner has not been heard before passing such order.

4. Learned counsel appearing for the respondents No.2 to 5, would defend the decree passed by the Lok Adalat and the order passed by the Tahsildar

on submission that the petitioner was not a party to any of the proceedings, therefore, he has no locus to maintain this petition.

5. In Bharvagi Constructions & Anr. v Kothakapu Muthyam Reddy & Ors. {2017 SCC Online SC 1053}, the Supreme Court has held that the only

remedy to challenge the award of the Lok Adalat is to prefer a petition under Article 226 or/and 227 of the Constitution of India and that if challenge

to the decree passed by the Lok Adalat is founded on the allegation of fraud such petition would always be maintainable.

6. As discussed above, the petitioner was apparently not a party to the suit even though he appears to be title holder by virtue of entry of his name in

the records of rights in Form B-1, therefore, the subsequent order passed by the Tahsildar deleting the name of the petitioner from the revenue record

is not only illegal, but there appears to be a fraud committed on the petitioner as he has been deprived of his property without providing him any

opportunity of hearing. The decree passed by the Lok Adalat is, therefore, required to be set aside in exercise of writ jurisdiction of this Court.

Accordingly, the order passed by the Lok Adalat in civil suit No.58-A/2014 and all subsequent orders emanating therefrom passed by the Tahsildar,

Raipur, are set aside.

7. The status of the revenue record pertaining to khasra No.414/1 area 1.39 acres situated at village Serikhedi, PC No.35, RI Circle Mandirhasaud,

Tahsil Arang, District Raipur, be restored back in the position on which it was recorded immediately prior to passing of decree by the Lok Adalat.

8. In the result, the writ petition is allowed to the extent indicated above. No order as to cost(s).