

(2012) 09 PAT CK 0096

Patna High Court

Case No: CWJC No. 14180 of 2007

Arun Gupta @ Arun Kr. Gupta
and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: Sept. 3, 2012

Judgement

@JUDGMENTTAG-ORDER

Ajay Kumar Tripathi, J.

The age old principle that fraud vitiates all still holds good and is patently established in the present proceeding. The Court with a heavy heart must record that the working of the Legal Services Authorities Act, 1987 (hereinafter referred to as the Act) and the object behind the enactment and creation of Lok Adalat is being used for oblique purposes rather than for bona fide settlement of dispute between parties. In fact, the Court also feels that some kind of change in the statute is required to be made with regard to utilization of services of retired Judicial Officers for the purposes of Lok Adalat since they feel emboldened by the fact that they are no longer under any administrative or disciplinary control giving them unbridled freedom of action and decision. This observation is being made looking at the outlandish nature and the quality of orders being passed by such Lok Adalats against all cannons and principles of law. At times the Court gets a feeling that such awards are made for extraneous reasons if not consideration. This is not the first instance of its kind coming before the court for adjudication. Petitioners before this Court are seeking quashing of the award dated 19.8.2006 passed by the Permanent Lok Adalat, Arrah in Pre-litigative Case No. 46 of 2006. Narration of events are quite revealing by themselves.

2. The Pre-litigative Case was initiated at the instance of respondent No. 3 of the present writ application who filed the case seeking relief against respondent No. 4, namely, Savitri Devi Gupta for return or direction for payment of Rs. 9,90,000/-. It was a money claim as would be evident from reading of his application and the

prayer made therein which has been annexed as Annexure-2 to the present writ application.

3. After some-time, a so called compromise petition was filed duly signed by respondent Nos. 3 and 4 which was in no manner reflective of the original relief which was prayed for before the Permanent Lok Adalat. The compromise included a long list of property which could be allotted in favour of the two parties for settlement of the issue. In other words instead of settling the dispute of payment or non-payment between respondent Nos. 3 and 4, the net effect of the compromise decree was creating a partition decree between the two parties, which also included properties of co-parceners including that of the petitioners.

4. There could have been no dispute even on the mechanism adopted by respondent Nos. 3 and 4, if it had no reflection on properties belonging to other persons of the family. Petitioners were compelled to approach the High Court because by executing the compromise petition and converting it into a kind of award, properties belonging to the present petitioners have also been alienated. Settlement between respondent Nos. 3 and 4 has been arrived at by mis-utilizing the services of Lok Adalat in a totally dishonest manner and the Lok Adalat has been a willing party. This is the background under which petitioners want quashing of the Award contained in Annexure-3.

5. Learned counsel representing respondent Nos. 3 and 4 submit that the Award cannot be challenged through writ Court looking at the provisions of law. The settlement so arrived binds only respondent Nos. 3 and 4 and in fact, the present petitioners were not even a party thereto.

6. Learned counsel for the petitioners submits that respondent Nos. 3 and 4 are at league with each other. They have dishonestly distributed their properties too by including them in the schedule of compromise as if it belonged to them. In fact, respondent No. 4 had already filed partition suit before the Subordinate Judge-V, Arrah which was registered as Title Suit No. 5 of 2004 which now stands withdrawn on 5.2.2011 after the passing of the award by Lok Adalat for obvious reason. It has also been urged that intentionally a claim of Rs. 9,90,000/- was made keeping the relief below ten lakhs as there is an embargo in law in the Act where a ceiling of rupees ten lakhs as value of property has been put. In other words intent and purpose of filing the money claim was a camouflage and the respondents 3 and 4 were well aware about the jurisdiction of a Lok Adalat.

7. One thing, however, is evident from the conduct of respondent Nos. 3 and 4 as well as the conduct of the Members of the Lok Adalat that this order or the award which has been passed for extraneous reasons without taking into consideration the original relief which was sought or prayed for by respondent No. 3 and the final settlement and the compromise arrived at between respondent Nos. 3 and 4. Lok Adalat to say the least should have verified whether the relief or the award was in

consonance with the original application or not or was it totally different from what respondent No. 3 was looking for from the forum in question.

8. In the opinion of this Court, Lok Adalat cannot be used as a platform for duping or obtaining benefits which cannot be given without intervention of a proper forum or Court on due adjudication. There was no business of respondent Nos. 3 and 4 to work out an arrangement between themselves and distribute properties belonging to the present petitioners as well when it is basically a family dispute relating to partition which was going on between the parties for a long period of time and obviously there are differences of opinion between the contesting party thereto.

9. In the above circumstance, the award contained in Annexure-3 stands quashed and the writ application is allowed. Permanent Lok Adalats are advised and cautioned that they should be more careful in future or else the Court will have to record its opinion in stronger terms than has been done today.

10. Let a copy of this order be circulated to all the District Judges for their information which will help them to re-draw their strategy as well as keep an eye on the goings on in the permanent Lok Adalats. A copy of the order should also be forwarded to the Chairman of Legal Services Authority of Bihar for his knowledge and information so that remedial measures could be taken or put in place.