

(2023-3)211 PLR 448 (Pat.)
PATNA HIGH COURT
Before: Mr. Justice Sandeep Kumar
LALLAN PANDEY and others – Petitioners,
Versus
THE STATE OF BIHAR – Respondents
Civil Writ Jurisdiction Case No.13738 of 2019

(i) Legal Services Authorities Act, 1987 – Partition Suit – Even if the petitioners are said to have signed the compromise petition but still the award of the Permanent Lok Adalat has to be quashed in view of the fact that Permanent Lok Adalat can only resolve dispute in relation to public utility services including such service, which the Central or the State Government may declare in the public interest to be public utility services under the Act – Subject matter of the Partition Suit does not relate to any of the Public Utility Services, over which the Permanent Lok Adalat can exercise jurisdiction – Impugned award of the Permanent Lok Adalat is without jurisdiction – Set aside. [Para 8, 11]

(ii) Court – 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 – Legal Services Authorities Act, 1987.

Mr. Chandra Kant, For the State : Mr. S. K. Mandal, S.C.-3 Mr. Bipin Kumar, A.C. to S.C.-3. Mr. Dharmendra Choubey, Mr. Umesh Narayan Dubey, For Resp. Nos. 2 to 6.

ORAL JUDGMENT

Sandeep Kumar, J. - (22.09.2023) – This application has been filed for setting aside the award dated 27.09.2005 passed by the Permanent Lok Adalat, Rohtas at Sasaram, in Partition Suit No. 502 of 2005, by which the suit property has been partitioned between the petitioners and the private respondents on the basis of a compromise petition entered between the parties.

2. The case of the petitioners is that petitioner no.1 is a practicing lawyer based in Patna and most of time he used to stay in Patna. The petitioner no.2 is the only son of petitioner no.1. The brother of the petitioner no.1 i.e. respondent no.2 decided to partition their property in half-half share as they both were full brothers and the property was to be divided between them only. In view of the aforesaid decision of partition, the petitioner no.1 along with respondent no.2 filed Partition Suit No.502 of 2005 in Permanent Lok Adalat for partition. As there was a settlement between the parties, the petitioner no.2 and his son i.e. petitioner no.2 were called by the respondent no.2 in the Civil Court at Rohtas and it was represented to them that the compromise petition has been prepared dividing the ancestral property into half-half share and accordingly, the petitioners signed the compromise petition.

3. After the compromise, the petitioners started cultivating their half share of the agricultural property but all of a sudden, in the year 2011 the petitioner no.2 was diagnosed with kidney ailment and for his treatment, the petitioner no.1 wanted to sell a part of his share of property. The petitioner no.1 took an advance of Rs.2,00,000/- from one purchaser but it was objected by the respondent no.2 by saying that he could not sell his half share of property as his share is less. Thereafter, the petitioner no.1 applied for the certified copy of the award of the Permanent Lok Adalat and came to know that respondent no.2 had played fraud upon the petitioners and in the schedule which were prepared, the petitioners were granted one fourth share of the property though the petitioners were entitled to half share of the property. Realizing this fraud, the petitioners have approached this Court by way of filing this writ petition.

4. Learned counsel for the petitioners submits that the award passed by the Permanent Lok Adalat is illegal and without jurisdiction. He further submits that even if the petitioners are said to have signed the compromise petition but still the award passed by the Permanent Lok Adalat is illegal and without jurisdiction as the Permanent Lok Adalat can only resolve disputes in relation to Public Utility Services including such service, which the Central or the State Government may declare in the public interest to be public utility services under the provisions of the Legal Services Authorities Act, 1987.

5. In support of his submissions, learned counsel for the petitioners has relied upon a decision of the this Court rendered in the case of *Dhirendra Pratap Singh v. Ravi Kant Singh* reported in 2014(2) PLJR 619 and a judgment dated 01.09.2023 passed by this Court in Civil Miscellaneous No.876 of 2018 (*Krishna Murari Tiwari vs. Ram Krit Tiwari & Ors.*).

6. Learned counsel for the respondent nos. 2 to 6 has supported the award of the Permanent Lok Adalat and has submitted that no fraud was committed in the partition of the ancestral property and the compromise deed was signed by the petitioners and therefore, now they cannot claim that the award is illegal.

7. I have considered the submissions of the petitioner and perused the materials on record.

8. This Court find force in the submission of learned counsel for the petitioners that even if the petitioners are said to have signed the compromise petition but still the award of the Permanent Lok Adalat has to be quashed in view of the fact that Permanent Lok Adalat can only resolve dispute in relation to public utility services including such service, which the Central or the State Government may declare in the public interest to be public utility services under the provisions of the Legal Services Authorities Act, 1987.

9. Similar issue has been decided in the case of *Dhirendra Pratap Singh v. Ravi Kant Singh* (supra). It will be relevant to quote paragraph nos. 9, 10, 11, 15 and 16 of the aforesaid decision, which read as under:-

“9. From the conjoint reading of Section 22-A(a), 22B and 22A(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 22A(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 10.06.2011 passed by “Permanent Lok Adalat” Kaumur at Bhabhua, in Miscellaneous Case No.06 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 VI-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 10.06.2011 passed by ‘Permanent Lok Adalat’, Kaimur at Bhabhua in Miscellaneous case no. 6 of 2004 is set aside.”

10. This Court in the case of *Krishna Murari vs. Ram Krit Tiwari* (supra) has held in paragraph nos.13 and 14 as under:-

“13. Similar view has been taken by a co-ordinate Bench of this Court in the case of *Nizamuddin @ Saiyad Nizamuddin vs. Saiyed Shahnawaz Alam & Ors.* (Supra). It will be relevant to quote paragraph nos. 7 to 9 of the aforesaid judgment, which read as under:-

“7. I have heard the learned counsel for the parties and gone through the materials on record. At this juncture, it would be relevant to reproduce Sections 22-A, 22-B and 22-C of the Legal Services Authorities Act, 1987 hereinbelow :-

22A. Definitions In this chapter and for the purposes the Section 22 and 23, unless the context other requires.

a) “Permanent Lok Adalat” means a Permanent Lok Adalat established under sub-section (1) of Section 22B;

b) “Public Utility Service” means any-

i) Transport services for the carriage of passengers or goods by air, road or water; or

ii) Postal, telegraph or telegraph or telephone service; or

iii) Supply of power, light or water to the public by any establishment; or

iv) System of public conservancy or sanitation; or

v) Service in hospital or dispensary; or

vi) Insurance service and includes any service which the Central Government or the State Government, as the case may be, may in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

22B. Establishment of Permanent Lok Adalat

1. Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalat at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

2. Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of-

a) A person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and

b) Two other persons having adequate experience in public utility services to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be prescribed by the Central Government.

22-C. Cognizance of cases by Permanent Lok Adalat.

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute; Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law; Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the

value of the property in dispute exceeds ten lakh rupees;

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under sub- section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it (a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the applicant;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstance of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement or the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties failed to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

8. A bare perusal of Section 22-A(b), which defines the public utility service and a collective reading of Section 22-A(a), Section 22-A(b), Section 22-B and Section 22-C would demonstrate that- "In Chapter VI-A of the Legal Services Authorities Act, 1987", which deals with Pre-litigation, Conciliation and Settlement, the Permanent Lok Adalats have been established only for exercising jurisdiction in respect of one or more public utility services as defined under Section 22-A (b) of the Act. Thus, a Permanent Lok Adalat Court has no jurisdiction with respect to any matter other than the public utility services.

9. In the instant case, the respondent no. 1 had filed a Pre-litigation case bearing case no. 205 of 2004 before the learned Court of Permanent Lok Adalat, Kaimur at Bhabhua interalia praying therein to declare and confirm that the complainant/

plaintiff is the owner and has the possession over the suit property which has been described in Schedule 'K'. It is apparent that the said Pre-litigation T.S. case no. 205 of 2004 had no connection at all with the public utility services for which Permanent Lok Adalats, as aforesaid, have been established and over which, the Permanent Lok Adalat can have jurisdiction."

14. In the present case also, the subject matter of the Title Suit No.72 of 2009 does not relate to any of the public utility services, over which the Permanent Lok Adalat can exercise jurisdiction. Therefore, this Court is of the opinion that the award of the Permanent Lok Adalat is without jurisdiction."

11. Considering the aforesaid decisions of this Court and also considering the facts of this case, I am of the view that in this case 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 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. Therefore, this Court is of the opinion that the impugned award of the Permanent Lok Adalat is without jurisdiction.

12. In view of the aforesaid discussions, this application is allowed. Accordingly, the award dated 27.09.2005 passed by Permanent Lok Adalat, Rohtas in Partition Suit No.502 of 2005 is set aside. However, the parties are given liberty to approach the competent Civil Court for partition of their property.

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