

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1923 of 2011

In

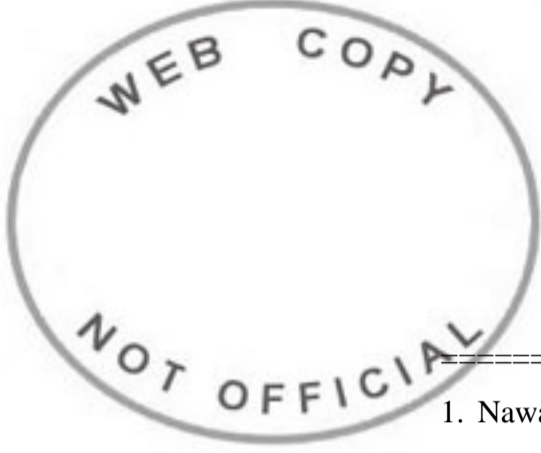
Civil Writ Jurisdiction Case No. 11501 of 2009

With

Interlocutory Application No.8587 of 2011

In

Letters Patent Appeal No.1923 of 2011



1. Nawal Kishore Prasad Singh son of Late Saudagar Singh, resident of village Govindpur, P.S. Sharmera, District Nalanda at present residing at Mohalla Postal Park, Near Nawratanpur Mandi, P.S. Kankerbagh, District Patna

2. Amisa, daughter of Manoj Kumar Singh, under the guardianship of his grandfather Nawal Kishore Prasad Singh resident of mohalla Postal Park, Near Navratanpur Mandi, P.S. Kankarbagh, District Patna

3. Aayush, son of Manoj Kumar Singh, under the guardianship of his grandfather Nawal Kishore Prasad Singh resident of mohalla Postal Park, Near Navratanpur Mandi, P.S. Kankarbagh, District Patna

.... Petitioners-Appellants

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna

2. Bishwamohan Prasad Sinha, son of Late Miterjeet Prasad resident of mohalla Ashok Nagar, Road No. 8, P.S. Kankarbagh, District Patna

3. Manoj Kumar Singh, son of Sri Nawal Kishore Prasad Singh, resident of village Govindpur, P.S. Sarmera, District Nalanda at present residing at mohalla Postal Park, Near Navratanpur Mandi, P.S. Kankarbagh, District Patna

.... Respondents-Respondents

Appearance :

For the Appellants : Mr. Shivendra Kumar Sinha, Advocate

For the Respondent No.2: Mr. Vishwa Ranjan Chaudhary, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

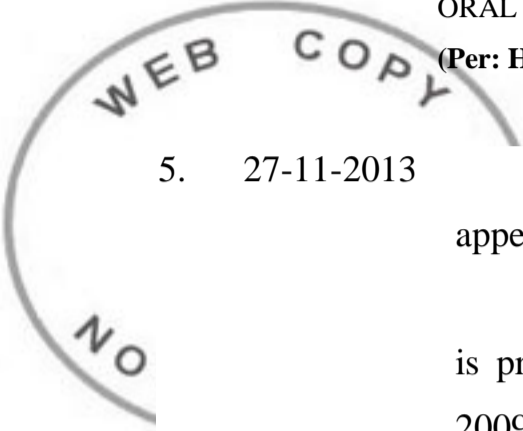
5. 27-11-2013

Though served the respondent no.3 has not entered appearance.

This Appeal under Clause 10 of the Letters Patent is preferred by the writ petitioners in C.W.J.C. No. 11501 of 2009 against the judgment and order dated 18th October 2011 passed by the learned single Judge.

In March 2007, the respondent no.2 approached the Permanent Lok Adalat, Civil Court, Patna in Lok Adalat Case No.64 of 2007 for partition of suit property. According to the respondent no.2, he was the maternal grandfather of the two minor children Amisa and Aayush. His daughter Mairy, the mother of two minor children, had died in 2007. Since then there was no one else to look after the minor children. The defendant Manoj Kumar Singh, the father of the minor children, was the owner of the vast property and that the suit property was the joint property of the parties to the suit. The said suit was compromised before the Lok Adalat and a decree for partition came to be passed on 31st August 2007.

The appellant approached this Court in above C.W.J.C. No. 11501 of 2009 to challenge the aforesaid decree dated 31st August 2007. The appellant claims to be the father of the aforesaid Manoj Kumar Singh and the paternal grandfather of the minor children Amisa and Aayush. According to the appellant, the suit property is his family property and could not have been partitioned in absence of the other coparceners or the



joint owners of the property that too at the instance of the maternal grandfather of the minor children. The challenge to the said compromise decree in above C.W.J.C. No. 11501 of 2009 by the present appellants has failed. Therefore, this Appeal.

We regret that although there have been standing instructions not to entertain property disputes in Lok Adalats, the Lok Adalats in the State of Bihar have a tendency to receive property disputes in Lok Adalats and to record compromise that too at a pre-litigation stage.

In absence of proof of title to the property; of identity of the parties and the genuineness of the claims, no decree for title or partition or possession can be passed. The very stage of proving one's case is obliterated when one approaches the Lok Adalat.

In the present case, it is obvious that the very petition before the Lok Adalat for partition of the suit property was collusive. A father of the minor children is a natural guardian. In the present case, although the mother of the minor children had died, the father was alive. The maternal grandfather could not have posed himself to be the guardian of the minor children. Nevertheless, the Lok Adalat had audacity to accept the petition by the grandfather and his claim to be the guardian of the minor children. Ex-facie, the petition and the compromise were collusive. Such a collusive decree could not have been sustained by the learned single Judge.

For the aforesaid reasons, the Appeal is allowed. The impugned judgment and order dated 18th October 2011 passed by the learned single Judge is set aside. C.W.J.C. No. 11501 of 2009 is allowed. The decree dated 31st August 2007

passed in Lok Adalat Case No.64 of 2007 is quashed and set aside. The Lok Adalat Case No.64 of 2007 stands rejected.

A direction is issued to all Lok Adalats not to entertain the property disputes or the disputes involving contentious issues in Lok Adalats and not to record compromise in respect of such disputes, especially the property disputes. Violation of this direction will be treated as contempt of this Court.

Interlocutory Application stands disposed of.

Registry is directed to circulate this order amongst all Civil Courts and Permanent Lok Adalats.

(R.M. Doshit, CJ)

A.F.R.

Pawan/-

(Ashwani Kumar Singh, J)