

(2008) 12 P&H CK 0098
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 21823 of 2008

Vijender Beniwal

APPELLANT

Vs

Presiding Judge, Permanent and Continuous Lok Adalat,
Samjhauta Sadan, Gurgaon and another

RESPONDENT

Date of Decision : 24-12-2008

Acts Referred:

Citation : (2009) 2 RCR(Civil) 467

Hon'ble Judges : Hemant Gupta, J and Nawab Singh, J

Advocate : Shri Sanjay Vij, Advocate., Advocates for appearing Parties

Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to the order dated 19.05.2008 passed by the Permanent Lok Adalat on an application filed by the petitioner for settlement at prelitigation stage.

2. The petitioner claims that he is in actual physical possession of land measuring 36 Kanals 17 Marlas and as per family settlement between the parties, Respondent No. 2 in whose name the revenue entries stand has admitted the claim of the petitioner as owner in possession of the said land by relinquishing his rights, title and interest therein. Subsequently, the said respondent resiled and an application was moved before the Permanent Lok Adalat for settlement.

3. Before the Permanent Lok Adalat, the respondent filed written statement admitting the claim of the petitioner but the Permanent Lok Adalat found that in terms of the previous award dated 13.06.2005 by the Lok Adalat, the respondent is only in possession of 36 Kanals 17 Marlas but has not been declared as owner thereof nor any document has been produced to show that the respondent is owner of the said land. The other prayer of the petitioner for correction of Khasra Girdawari was declined for the reason that the civil Court has no jurisdiction to direct the correction of Khasra Girdawari. Therefore, the second prayer was also declined. The said order is impugned in the present petition.

4. A perusal of the petition and the documents attached thereto shows that the

petitioner has adopted a dubious way to circumvent the provisions of the Registration Act, 1908 and the India Stamp Act, 1899 claiming ownership over the land without execution of any document on payment of requisite stamp duty.

5. It appears that one Sanjay s/o Balwan was owner of the land and Respondent No. 2 herein moved an application before the Presiding Officer, Samjhauta Sadan, Gurgaon, for settlement. The basis of the settlement was a family settlement wherein said Sanjay agreed that he has no share in the suit land and the plaintiff is in possession of land measuring 36 Kanals 17 Marlas. The settlement was recorded on 13.06.2005. Thereafter, the petitioner came out with another family settlement wherein respondent No. 2 relinquished his right, title and interest in the land measuring 36 Kanals 17 Marlas admitting the petitioner to be owner and in possession of the said land.

6. Respondent No.2 and the abovesaid Sanjay are not the members of the family where the settlement could be arrived before the lok Adalat/ Permanent Lok Adalat. Similar is the situation in respect of petitioner and respondent No.2 herein as the parties are not related and are not members of the family which could arrive at a family settlement. It is simplicitor a case of sale firstly by sanjay to Prithi Singh, respondent No. 2, and then by Prithi Singh, respondent No. 2, to the petitioner. In order to avoid stamp duty and registration charges, the methodology of prelitigation settlement has been devised. Permanent Lok Adalat was not established with a view to permit the parties to avoid stamp duty or registration charges or to circumvent the provisions of law. The genuine and bona fide disputes alone could be decided by the Lok Adalat. The fraud of evasion of stamp duty sought to be played by the petitioner cannot be permitted to be carried out in the manner devised by the petitioner.

7. Learned counsel for the petitioner has relied upon decision of this Court reported as Mangal Singh and another v. Nihal Singh, 1977 PLJ 2 (DB); Inder Singh v. Financial Commissioner and others, 1983 PLJ 280; Roop Ram v. Mai Sukh, 1998(2) RCR(Civil) 273 : 1998(1) PLR 610; and Gopal Singh (died) through his Lrs. v. Punjab State, 1992(2) RRR 44 : 1993(1) PLR 213 to contend that the finding recorded by the Permanent Lok Adalat that suit for declaration is not maintainable is not correct. However, the said issue need not be examined as the petitioner has approached the Permanent Lok Adalat with a view to circumvent the provision of law. If it is simplicitor correction of Khasra Girdawari, the parties can very well approach the revenue authorities for correction of Khasra Girdawari but transfer of title which cannot be permitted in the manner initiated by the petitioner.

8. In view of the above, present writ petition is dismissed. However, a copy of the order be communicated to all the Lok Adalats/Permanent Lok Adalats for meticulous compliance so that the parties do not misuse the process of settlement under the Legal Services Authorities Act, 1987, so as to circumvent the provisions of relevant Statutes.

Petitoin dismissed.