

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal No. 51/2018**  
**Umashankar Choudhary**  
**Vrs.**  
**Sanjay Kumar Singh**  
**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 02/2017-18 on 22.02.2018.

The brief facts of the case are that the present respondent Sanjay Kumar Singh S/o Shyam Bahadur Singh R/o Vill-Illamdipur, P.S.-G.B. Nagar Tarwara, Dist-Siwan filed a case before DCLR, Siwan Sadar under the provision of Bihar Land Dispute Resolution Act-2009 and in the said case the present appellant was made as o.ps. In the said case, the prayer made and relief sought for were that the piece of land measuring 2 katha of khata No. 102 khesera No. 177 situated in Mouza Fatulahi Fatehpur was purchased by him through registered sale deed in the year 2011 from rightful owner and jamabandi has already been created and even land possession certificate has also been issued and as the o.p. (present appellant) created disturbance with a motive to grab the said land, as such the said land be demarcated after measurement. Thereafter, the learned DCLR hearing the parties finally vide order dt. 22.02.2018 ordered the concerned C.O. for measurement and demarcation of the said land. Feeling aggrieved by the said order the present appellant (o.p. before DCLR) has preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing for the parties in their detailed arguments submitted as to how they came to acquire the said disputed land and also admitted the fact that the dispute between them basically relates to private land.

Considering the facts and circumstances of the case, materials available on record and pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case, the dispute between the parties relates to their respective claim over the disputed land on one or another basis. In fact, it appears that the dispute between the parties relates to their respective possession over the area of the disputed land. None of the parties are either allottee or settle. In view of the recent judgement of Hon'ble High Court in CWJC No. 1091/2013 (*Maheshwar Mandal & ors Vrs The State of Bihar & ors.*), the case brought before learned DCLR was not maintainable as the dispute between the parties is purely a dispute between private parties with respect to measurement of a land for which right, title etc. has not been adjudicated by a competent Court or forum under any of the six acts as enumerated in BLDR Act 2009. As such the learned DCLR was not competent to deal with such kind of dispute under BLDR Act. But the learned DCLR, instead of closing the proceeding brought before him for adjudication went on to appoint a survey knowing commissioner for demarcation of the disputed piece of land.

For the aforementioned reasons, the impugned order of learned DCLR is not sustainable and hence the same is set aside.

Accordingly, this appeal petition is disposed of.

Dictated and Corrected by me.

Commissioner  
Saran Division, Chapra.

Commissioner  
Saran Division, Chapra.