

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 87/2016

Manoj Tiwari & ors.

Vrs.

Tarkeshwar Prasad

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in Land Dispute Resolution case No. 51/2015-16 on 23.02.2016.

The brief facts of the case are that the present respondent Tarkeshwar Prasad S/o Ram Ekbal Sah R/o Vill-Karhi khurd, P.S.-Basantpur, Dist-Siwan filed a case before DCLR, Maharajganj under the provision of Bihar Land Dispute Resolution Act-2009 in which the present appellants were made as o.ps. In the said case the present respondent (petitioner before DCLR) had sought relief for declaration of his title and possession over the disputed land of khata No. 90 plot No. 505, area 1 katha 18 dhur and 5 dhurki situated in Mouza Nagauli. Thereafter, the learned DCLR after hearing the case finally vide order dt. 23.02.2016 disposed of the said case and restrained the o.ps from making any disturbance over the said disputed land. Feeling aggrieved by the said order, the present appellants (o.p. before DCLR) have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel for the parties in course of their argument submitted in details about their respective claim regarding right, title and possession over the said disputed 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 claim over the disputed 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. In fact, the present respondent approached the competent authority under the BLDR Act for declaration of his title and possession and the learned DCLR in no way is competent to grant such kind of relief under the BLDR Act. 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 pass an order on merit.

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.