

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal case No. 35/2012**  
**Rajmuni Devi**  
**Vrs.**  
**Nanda Prasad & ors.**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 22/2010-11 on 22.12.2011.

The brief facts of the case are that the present appellant Rajmuni Devi W/o Jittendra Pandey R/o Vill-Laxamipur, P.S.-Siwan Town, Dist-Siwan filed a case bearing No. BLDR case No. 22/2010-11 in which the present respondent Nanda Prasad and some others were made as o.ps. In the said case the present appellant as petitioner claimed that the disputed land appertaining to khat No. 2182 and 29, Survey No. 5891, 5893, 5887, 5892 having total area 1 bigha 6 katha 4 dhur, situated in Mouza Siwan is his ancestral property and the respondents got their name included in jamabandi No. 472 on the basis of forged documents and now they are trying to dispossess her from the said land. She further sought relief for restraining the o.ps from creating any hindrance and the name of Mohan Lal Sah be deleted from Jamabandi No. 422. Thereafter, the learned DCLR after hearing the parties finally vide order dt. 22.12.2011 disposed of the said case with the observation that the said Court has no jurisdiction to decide the genuineness of any documents rather the said jurisdiction lies with civil Court. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this Court.

Heard the learned counsel for the petitioner only as the learned counsel for the respondents remained absent despite being given last chance earlier.

The learned counsel appearing on behalf of the appellant instead of forwarding oral arguments requested for taking into consideration, the written arguments filed by him earlier. The learned counsel in his written arguments laid maximum emphasis on the point that the respondents on the basis of fraud got manipulated the registers kept in the office of Registrar, Saran and also got some pages detached from the said register for which when a complaint was made to D.M. Saran he got the matter inquired and ultimately on FIR No. 219/12 dt. 08.08.2012 was ordered and a criminal proceeding is pending before CJM, Chapra in which the respondent No.1 is main accused. The learned counsel also mentioned in his written arguments that the learned DCLR was competent to look into the fraud played in jamabandi with respect to the disputed land, but the learned DCLR rejected the said case on the ground that he has got no jurisdiction to look into such kind of dispute.

Considering the facts and circumstances of the case, materials available on record and pleadings advanced by the learned counsel for the appellant in his written arguments 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. Non of the parties are either allottee or settle. In view of the recent judgement of Hon'ble High Court in the case of *Maheshwar Mandal & ors Vrs The State of Bihar & ors.* the case brought before learned DCLR was not maintainable as the

dispute is purely a dispute between private parties with respect to private land. As such the learned DCLR was not competent to deal with such kind of dispute as the dispute amongst the parties relates to adjudication of complex question of right and title over the disputed land. But it is seen that the learned DCLR, instead of closing the proceeding and directing the parties to seek remedy before the competent Civil Court, went on to continue the proceeding for which he was no way competent as per the clear provision of section 4(5) of the BLDR Act. Obviously, such kind of disputed question with respect to claim of title can not be decided in a summary proceeding under the provisions of BLDR Act-2009. It appears that the learned DCLR has completely ignored the mandatory provision of section 4(5) of the BLDR Act-2009 and went on to continue the proceeding. It is to be noted that section 4(5) of BLDR Act-2009 has clearly envisaged that under all circumstances where issue relating to title arise would have to be mandatorily closed by the competent authority. It is seen that the learned DCLR has not considered this provision of the act while disposing of the case.

For the reasons stated above, the impugned order of 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.