

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal case No. 30/2018
Sanjeev Kumar & ors.

Vrs.
Saida Begam & ors.

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No: 33/2017-18 on 24.01.2018.

The brief facts of the case are that one Saida Begam W/o Mustafa Alam, R/o Vill-Sisai, P.S. & Circle-Goreyakothi, Dist-Siwan filed a case before DCLR, Maharajganj under the provision of BLDR Act. 2009. In the said case the present appellants were made as o.ps. In the said case, the present respondent as petitioner sought multiple reliefs like; the o.ps be restrained from making any disturbance, possession be delivered over the disputed land, suitable compensation be ordered for the mental, physical and financial suffering besides other relief to which the Court thinks fit and proper. The disputed piece of land of this case having khata No. 416 plot No. 5019 measuring 7 bigha 5 katha 2 dhur and is situated in Mouza Sisai of circle Goreyakothia of Siwan district. The learned DCLR after issuing notice to the o.ps (present appellants) heard the case and finally vide order dt. 24.01.2018 confirmed the claim of the petitioner (present respondent) over 3 katha land of the said disputed plot and also restrained the o.ps from making any interference over the said land and also ordered for delivery of possession over the said land.

On being aggrieved and dissatisfied with the order passed by learned DCLR, Maharajganj, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order strongly submitted that the said order is bad in law and against the weight of evidence on record. He further argued that the learned Court below wrongly held the claim of the respondent as justified over the disputed land rather the learned Court ought to have held that Dr. Sheela Sharma had no right to execute sale deed in respect of coparcenary property of her husband. He also submitted that this case was not maintainable at all in the Court of DCLR, Maharajganj in view of the decision of Hon'ble High Court in CWJC No. 1091/2013 Maheshwar Mandal & other Vrs The State of Bihar & ors. The learned counsel further submitted that the said case was not to be adjudicated by the learned DCLR in view of the complexity of determination of title rather the said case is to be decided by competent Civil Court only. The learned counsel lastly said that as the impugned order is without jurisdiction and also against the recent judgement of Hon'ble High Court, the impugned order is fit to be set aside.

The learned counsel appearing on behalf of the respondent opposed the submissions forwarded by the learned counsel for the appellant and submitted that as the appellant created trouble in possession of the respondent, she approached the learned DCLR for restraining the appellant from creating hindrance. He further argued that the case was maintainable before DCLR and as such the order passed is just, proper and valid. He also argued that the land in question is the ancestral property of Dr. Sheela Sharma and she

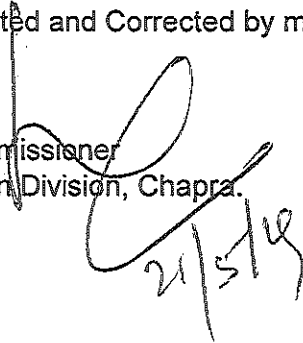


executed sale deed in favour of respondent and delivered possession and even the land has also been mutated in her name. The lower Court being a revenue Court has power to save and protect the interest of the tenant and the order has also been passed in the same light. The learned counsel further submitted that in the instant case there is no question of any title rather the appellants have wrongly raised the question of title and are trying to create confusion. It has also been submitted by the learned counsel that there is no illegality in the impugned order as such the same is fit to be upheld.

Considering the facts and circumstances of the case, materials available on record, rival submissions forwarded by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the present matter relates to a dispute between various parties with respect to a piece of land for which right, title etc. has not been adjudicated by any competent forum or Court of law. In light of the order passed by Hon'ble High Court in CWJC No. 1091/2013 (Maheshwar Mandal and ors Vrs The State of Bihar & ors.) on 31.07.2018 and observations made therein, DCLR, Maharajganj was not competent to pass order dt. 24.01.18 in BLDR case No. 33/2017-18. Therefore, order dt. 31.07.18 passed by DCLR, Maharajganj in BLDR case No. 33/2017-18 is hereby set aside and this appeal petition is accordingly disposed of.

Dictated and Corrected by me.

Commissioner
Saran Division, Chapra.



Commissioner
Saran Division, Chapra.

