

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 68/2018
Jawahir Prasad
Vrs.
Hare Ram Prasad & ors.
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in Bihar Land Dispute Resolution case No. 03/2017-18 on 24.01.2018.

The brief facts of the case are that the present appellant Jawahir Prasad S/o Ramjeet Prasad, R/o Balau, P.S+P.O-Maharajganj, Dist-Siwan filed a case before DCLR, Maharajganj under the provision of Bihar Land Dispute Resolution Act-2009 and in which the present respondent Hare Ram Prasad & ors. of the same village was made as o.p. In the said case, the present appellant as petitioner sought relief to the extent that disputed land measuring 4 katha 1 dhur appertaining to khata No. 69. Survey plot No. 1489 situated in Mouza Balau from which the present respondent has captured more are then his share as such the said land be measured and his possession be delivered. Thereafter, the learned DCLR after hearing the case finally vide order dt. 24.01.2018 rejected the claim of the petitioner. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing for both the parties forwarded their detailed arguments in support of their respective claim and counter claim and they also admitted the fact that dispute amongst them is related to land which is a private land.

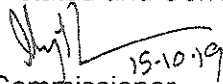
Considering the facts and circumstances of the case, materials available on record and pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case, the dispute between the parties relates to their respective claim over the disputed 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 of judicature at Patna on 31.07.2018 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. The findings arrived at by the learned DCLR reads thus:-

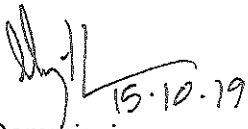
“जिस बैनामा दस्तावेज के आधार पर विपक्षीय प्रश्नगत भूखंड के अंश भाग पर अपना हकियत एवं दावा पेश कर रहे हैं एवं दखल-कब्जा बनाये हुए हैं उसे किसी सक्षम न्यायालय द्वारा अवैध भी घोषित नहीं किया गया है। स्थल निरीक्षण में प्रश्नगत भूखंड पर बाखुदहा बँटवारा पूरब-पश्चिम दिशा के हिसाब नहीं बल्कि उत्तर-दक्षिण के अनुसार होना प्रतीत हुआ। स्थल जांच के समय उपस्थित एक ग्रामीण द्वारा भी इस का समर्थन किया गया। उपरोक्त वर्णित तथ्य एवं संबद्ध कागजातों की विवेचना से यह स्पष्ट है कि आवेदक जवाहीर प्रसाद आवेदन में वर्णित तथ्यों को संपुष्ट करने में विफल रहे हैं। अतः इनके दावे को खारिज करते हुए इस वाद की कार्यवाही समाप्त घोषित की जाती है।”

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.


15.10.19
Commissioner
Saran Division, Chapra.


15.10.19
Commissioner
Saran Division, Chapra.