

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 30/2016

Ashok Singh & ors.

Vrs.

Kapildeo Prasad Singh.

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Gopalganj in Land Dispute Resolution case No. 02/2014-15 on 11.12.2015.

The brief facts of the case are that the present respondent Kapildeo Prasad Singh R/o Vill-Konhawa, P.S.& Dist-Gopalganj filed a case before DCLR, Gopalganj under the provision of Bihar Land Dispute Resolution Act, 2009 and in the said case present appellants were made as o.ps. In the said case the present respondent as petitioner sought multiple reliefs like, his right be decided on 3 decimal of disputed land of plot No. 402, khata No. 133, -removal of possession and construction mainly o.ps, recovery of possession and the measurement of the said land from southern and western side and thereafter, rent be fixed and jamabandi be created on the ground that the said land was settled to him through Bhoodan Praman Patra. The learned DCLR, finally vide order dt. 11.12.2015 allowed the said case and also ordered for measurement of the said disputed land. Feeling aggrieved by the said order the present appellants (respondent before DCLR) have preferred the instant appeal case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted that the same is against the facts and documents available on the records. He further said that the said land being Gair Mazurwa Malik land of Hathua Estate was donated to Bihar Bhoodan Yagna Committee and thereafter the said land was settled with one Baliram Singh by Bhoodan Yagna Committee in 1969 and since then the said land being used as sahan of his house. He also argued that the present respondents claiming the said land on the basis of alleged Bhoodan Settlement stated to have been made on 14.07.1980 whereas the appellant got settlement from Bhoodan in 1969 when the Bhoodan office was functioning at Chapra. He also strongly submitted that the learned Court erred in not considering the fact that when Bhoodan had already settled the said disputed land with the appellant No.6 then how it was again settled the said 3 decimal land with the respondent in the year 1980. The learned counsel also submitted that for deciding the validity of the genuineness of the settlement of the appellant, the learned DCLR should have called for Bhoodan settlement register of 1969 but without doing so, he relied on the Bhoodan certificate of the respondent and did not attach any importance to the certificate issued by the Bhoodan Yagna Committee in the year 1969 when it's office was functioning from Chapra. The learned counsel further said that the said 3 decimal land is in the boundary of his house, the said land was settled to him. He also said that the report of circle officer, Gopalganj dt. 01.06.2015, available on the record is a strong evidence which clearly says that the said land is situated far away from the residential house of the respondent. The learned counsel also said that when he sought information through RTI from Bihar Bhoodan Yagna Committee, Patna, the Chairman vide his letter dt. 05.05.2018 addressed to office secretary, District Bhoodan Yagna office, Gopalganj in which it has been clearly mentioned that the donor is a well to do person and having no possession over the said land and not even jamabandi has been created in his favour and also directed for cancelling the praman patra issued in favour of the respondent and made recommendation for allotment of said land in the name of the wife of one Ashok Singh. He lastly said that this is a complicated issue as such the case be referred back to DCLR, Gopalganj for reconsideration in view of the facts stated in the letter of Chairman.


The learned counsel appearing on behalf of the respondent on the other hand, strongly refuted the arguments forwarded by the learned counsel for the appellant and submitted that the impugned order is just, proper and valid. He further submitted that the respondent is a bonafide settlee of Bihar Bhoodan Yagna Committee but the appellants have forcibly constructed a boundary around the said plot and now on the basis of forged paper, they are claiming themselves to be the Bhoodan settlee. He further submitted that even the learned DCLR also held in its order that from the letter of office secretary, it is obvious that the certificate No. 69445 dt. 05.11.1969 has not been issued from his office as such the claim of appellant is totally false and on the basis of forged document. He also argued that as the learned DCLR after considering all aspects of the matter, finally came to the conclusion that the certificate on the basis of which he claims his right over the said 3 decimal land is false, he ordered for measurement and recovery of possession. The learned counsel also said that the report of Patna, Bhoodan Committee over which, the appellant laid emphasis is just to complicate the matter and even the said letter is of the year 2018 having no relevance now. He lastly said that this appeal is fit to be dismissed for lack of merit.

Considering the facts and circumstances of the case, material available on records, rival submissions made by the learned counsel for the parties and on perusal of the impugned order, it is seen that both parties lay their claim over the said 3 decimal land of plot No. 402 khata No. 133 on the basis of their respective Bhoodan certificate issued to them with respect to said land. The claim of the appellant is that the said land was allotted to one Baliram Singh in the year 1969 from Chapra office whereas the respondent says that the said land was settled to him in the year 1980 by the Bhoodan Yagna Committee, Gopalganj. It is also seen that the learned DCLR placed reliance on the letter issued by Bhoodan Yagna office, Gopalganj vide letter No. 858 dt. 08.02.03 wherein it has been mentioned that the certificate claimed by the appellant has not been issued from his office and on this basis he held the claim of the appellant as untrue. The claim of the appellant is that he has got settlement in the year 1969 from Chapra office, as such there is no question of availability of the said record in the Gopalganj office. This claim of the appellant seems to be true to some extent in view of the fact that the Gopalganj district itself has come into existence in the year 1972. At least the learned DCLR should have inquired into this disputed question of facts before arriving at his final findings about the bonafide of claims of the parties. The second important point which has been ignored by the learned DCLR is about the existing possession over the said land. In this connection the letter of C.O. Gopalganj, No. 833 dt. 01.06.2015 clearly says that the said land is not in the possession of the respondent rather the same is as road used by one Ashok Singh as road from exit from his house. The other point raised now by the appellant is about the letter issued by the Chairman, Bihar Bhoodan Committee Patna in the year 2018 regarding cancellation of the settlement made in favour of Kapildeo Singh is not very much relevant now but it gives some insight into the whole issue and its complexity also. In fact it appears that some disputed question of fact needs, with regard to issuance of Bhoodan certificates to both parties in two different years from two different offices, serious reconsideration to arrive at the conclusive findings of fact.

For the aforementioned reasons, the impugned order of DCLR, Gopalganj is set aside and case is remitted back to him for reconsideration and for passing a fresh order in accordance with law after thoroughly examining the claim and counter claim of the parties with respect to genuineness of issuance of those two praman patras and existence of possession on the basis of said Bhoodan certificates.

With the aforementioned observations and direction, this appeal petition is disposed of.

Dictated and Corrected by me.


30-10-19
Commissioner
Saran Division, Chapra.


30-10-19
Commissioner
Saran Division, Chapra.