

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal No. 168/2015**  
**Narendra Singh & ors.**  
**Vrs.**  
**Abdul Kalam & ors.**  
**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 226/404/2013-14

The brief facts of the case are that the present respondent Abdul Kalam S/o Late Sahid Miya, Noor Alam S/o Late Ishaq Miya and Jamadar Miya S/o Late Shamsuddin Miya, all resident of village Hariharpur Lagarh Tola, P.S.-G.B. Nagar, Circle-Barharia, Dist-Siwan filed a case under the provision of Bihar Land Dispute Resolution Act, 2009 before DCLR, Siwan Sadar in which present appellants were made as o.ps. In the said case the present respondents as petitioner had sought relief to the extent that the plot No. 547 of khata No. 243 having area 4 katha 17 dhur has been captured by the o.ps (present appellants) as such right of villagers be declared over the said land and their illegal possession be removed. Thereafter the learned DCLR after hearing the case finally vide order dt. 04.03.2015 disposed of the said case and held that the jamabandi with respect to said land has already been cancelled by Addl. Collector, Siwan vide case No. 47/1978-79 and on that basis the possession of the o.ps becomes illegal and any disturbance created by the o.ps is not legal. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

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

The learned counsel appearing on behalf of the appellants submitted in detail as to how they came to acquire the said land which was settled earlier to their ancestor Sita Ram Singh on the basis of return submitted by Ex-landlord and accordingly jamabandi No. 29 was also created in his name. He further argued that the respondents wants to make a road in his private land as such the claim of the o.ps are fit to be rejected. He also submitted that the learned DCLR without considering the relevant facts of the case properly has passed the order which is illegal and fit to be set aside.


Considering the facts and circumstances of the case, material available on records pleadings forwarded by learned counsel for the appellant and on perusal of the impugned order, it is seen that the said disputed land is being used by the villagers as road and the nature of the said land is Gair Mazurwa Malik. The learned DCLR has also observed in his order that the said disputed khata No. 243 for which jamabandi No. 29 was existing in the name of Sita Ram Singh has been cancelled by Addl. Collector, Siwan The relevant portion of the impugned order reads thus:-

“उभय पक्ष की सुनवाई एवं अभिलेखबद्ध कागजातों का अवलोकन किया गया। विवादित खेसरा की भूमि गैर मजरूआ मालिक खातों की एराजी है, जिसकी जमाबंदी संख्या 29 अन्य भूमि के साथ विपक्षीगण के पूर्वज सीताराम सिंह के नाम चलती थी। अभिलेख में संलग्न जमाबंदी संख्या 29 की छायाप्रति के अवलोकन से स्पष्ट है कि उक्त जमाबंदी में से विवादित खाता 243 की भूमि अपर समाहर्ता, सिवान में वाद संख्या-47/1978-79 द्वारा रद्द कर दिया गया है। इसलिए विवादित भूमि पर विपक्षीगण का कब्जा अवैध हो जाता है। विवादित भूमि आवेदकगण सहित अन्य ग्रामीण के रास्ता के उपयोग में आती है। इसलिए विपक्षीगण का किसी भी प्रकार का मोजाहिमत करना वैध नहीं है। उक्त विवेचना के आलोक में वाद का निस्तारण किया जाता है।”

I do not find any apparent illegality in the said findings of learned DCLR, In fact the learned counsel for the appellant also failed to prove his claim through sufficient documentary evidence before the learned DCLR.

For the aforementioned reasons, the impugned order is upheld and this appeal petition being devoid of any merit is dismissed, accordingly.

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.

  
Commissioner  
Saran Division, Chapra.