

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 118/2018
Laxaman Singh & ors.
Vrs.
Md. Naseem
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajanj in BLDR case No. 57/2017-18, Md. Naseem Vrs Sajeed Hussain & ors. on 18.04.2018.

The brief facts of the case are that the present respondent Md. Naseem S/o Late Ahmad Hussain R/o Rampur kothi Darjee tola, P.S.-Bhagwanpur Hat, Dist-Siwan filed a case before DCLR, Maharajanj vide BLDR case No. 57/2017-18 under the provision of Bihar Land Dispute Resolution Act-2009 in which the present appellant was made as o.p. No.2 alongwith some other o.ps. In the said case, the petitioner before DCLR, sought relief to the extent that the mutation done in favour of Laxaman Singh (o.p.No.2 before DCLR) be cancelled and over the said land his title be declared and sale deed with respect to 4 katha land of khata No. 02, plot No. 44 executed by Laxaman Singh be declared as void. Thereafter, the learned DCLR, hearing the case finally vide order dt. 18.04.2018 disposed of the said case. Feeling aggrieved by the said order the present appellant (o.p. No. 2 before DCLR) has preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing for both the parties forwarded their 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 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. But the learned DCLR, instead of closing the proceeding brought before him for adjudication went on to appoint a survey knowing commissioner for demarcation of the disputed piece of land.

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.

Commissioner
Saran Division, Chapra.

Commissioner
Saran Division, Chapra.