

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 110/2018
Shekh Manjoor Miya & ors.
Vrs.
Rajendra Sah
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in Land Dispute Resolution case No. 04/2017-18 on 20.04.2018.

The brief facts of the case are that the present respondent Rajendra Sah S/o Ram Chandra Sah, R/o Vill+P.O.-Kasdeora Bangra, P.S.-Maharajganj, Dist-Siwan filed a case before DCLR, Maharajganj under the provision of Bihar Land Dispute Resolution Act, 2009 in which the present appellants were impleaded as o.ps. In the said case, the present respondent as petitioner had sought relief to the extent that the disputed piece of land measuring 1 bigha 16 dhur of khata No. 158, plot No. 1211/1236 and of khata No. 13 and plot No. 1209 having area 5 katha 2 dhur are their private land which have been illegally captured by the o.ps (present appellants) as such his possession be delivered and boundary be demarcated. Thereafter, the learned DCLR after hearing the parties finally vide order dt. 20.04.2018 ordered the concerned C.O. for delivery of possession after measurement of the said disputed land. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.


The learned counsel for the parties in course of their argument submitted in details about their respective claim regarding right, title and position over the said disputed 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 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 deal with right, title and interest of the parties over the disputed land instead of directing the parties to approach the competent Civil Court for adjudication of their dispute.

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.


26.10.19
Commissioner
Saran Division, Chapra.


26.10.19
Commissioner
Saran Division, Chapra.