

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 131/2018

Shambhu Nath Singh

Vrs.

Swami Nath Singh

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in Bihar Land Dispute Resolution case No. 17/2017-18 on 05.05.2018.

The brief facts of the case are that the present appellant Shambhu Nath Singh S/o Late Fulena Singh, R/o Mathanpura, P.S.-G.B. Nagar, Dist-Siwan filed a case before DCLR, Siwan Sadar under the provision of Bihar Land Dispute Resolution Act-2009 and in which the present respondent Swaminath Singh of the same village was made as o.p. In the said case, the present as petitioner sought relief to the extent that 11 dhur land of khata No. 31, plot No. 583 towards sough situated in Mouza Mathanpura came to his grand father through after exchange with be measured and encroachment made by o.p. on the said land be removed. The learned DCLR heard both the parties and also visited the spot and on that basis he finally concluded that the very title of the petitioner over the said disputed plot is under dispute as such he may get his title declared by a competent Court and the said order was passed on 05.05.2018. Feeling aggrieved by the said order, the present appellant have preferred the instant appeal before this Court.

Heard.

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.

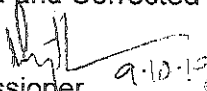
Considering the facts and circumstances of the case, materials available on record and pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case, the dispute between the parties relates to their respective claim over the disputed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

“इस प्रकार उक्त भूमि पर आवेदक का स्वत्व ही विवादित हो जाता है। इसलिए आवेदक जब तक अपने स्वत्व का निर्धारण सक्षम व्यवहार न्यायालय से नहीं कर लेते हैं तबतक इस मामले में कोई निर्णय लेना समीचीन नहीं है।”

For the aforementioned reasons, the impugned order of learned DCLR is sustainable and hence the same is upheld.

Accordingly, this appeal petition is dismissed.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.