

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 90/2016

Lakshmi Narayan Singh & ors.

Vrs.

Chhotelal Singh

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in Land Dispute case No. 42/2015-16.

The brief facts of the case are that the present respondent Chhotelal Singh S/o Late Suraj Singh R/o Vill-Sathi, P.S. & Circle-Uchakagaon, Dist-Gopalganj filed a case before DCLR under the provision of BLDR Act-2009 in which the present appellant were made as o.ps. In the said case the present respondent as petitioner before DCLR had sought relief to the extent that the 5 ½ dhur land of khesera No. 370, khata No. 105 situated in village sathi was purchased by him through registered sale deed on 21.12.2015 but the o.ps (present appellant) were illegally created hindrance over his peaceful possession. The learned DCLR after hearing the case finally vide order dt. 04.04.2016, allowed the said case. Feeling aggrieved by the said order, the present appellants have preferred the instant revision case before this Court.

Heard the learned counsel for the appellant only as the learned counsel for the respondent remained absent on the day of final hearing despite being given last chance earlier.

The learned counsel appearing on behalf of the appellant at the very outset of his argument submitted that the impugned order is illegal and without jurisdiction as the case brought before learned DCLR had involved serious dispute relating to adjudication of complex question of title and the learned DCLR was no way competent to determine such kind of dispute under the BLDR Act-2009. He further argued that in the said case before DCLR, the present respondent as petitioner raised the question of genuineness of sale deed dt. 21.12.2015 and 27.10.2015 and also story of exchange in the year 1955. He further argued that the learned DCLR by usurping the power of competent Civil Court exceeded his jurisdiction in deciding the case in a summary proceeding which is legal not valid. The learned counsel also submitted that the respondents have already preferred a case bearing No. 458/2007 before Munsif Magistrate-1, Gopalganj for the said dispute. He lastly prayed that the impugned order is not maintainable as such the same is fit to be set aside.

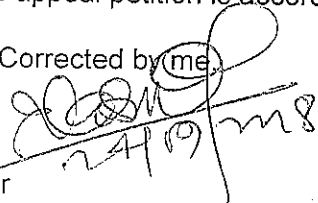
The learned counsel for the respondent in his rejoinder filed on 18.01.2018 has explained the whole course of events leading to filing of case before learned DCLR. He further mentioned that after going through the documents produced by the both parties and after hearing their learned counsel, the learned DCLR has passed a rightful order regarding measurement of the disputed land and also restrained the present appellants from disrupting the possession of the respondents.

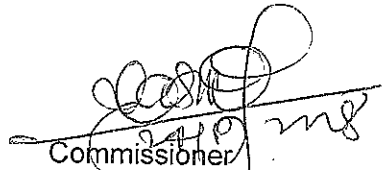
Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the appellant and on perusal of the impugned order, it is quite obvious that in the instant case, dispute between the parties relates to raiyati land and its measurement. Both parties claim their right over the said land on the basis of sale deeds.

It is well established that the subject matter of adjudication under the BLDR Act does not include such matters. The Hon'ble High Court in its recent judgment in CWJC No. 1091/2013 (Maheshwar Mandal & ors. Vrs The State of Bihar & ors.) on 31.07.2018 has observed that the revenue authorities are not empowered to entertain matter not arising out of the six enactments mentioned in schedule-1 of the BLDR Act-2009. Obviously the instant matter does not fall under any of the said six enactments and as such it was not maintainable before the lower Court.

Thus, for the aforesaid reasons and keeping in view the observation made by the division bench of the Hon'ble High Court as quoted above, the impugned order of DCLR is set aside and this appeal petition is accordingly disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.