

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal No. 355/2013**  
**Bhagrasari Bhagat**  
**Vrs**  
**Suryadeo Singh & ors.**  
**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in Land Dispute Resolution case No. 97/2011-12 on 19.09.2013.

The brief facts of the case are that the present appellant Bhagrasari Bhagat S/o Late Shiv Balak Bhagat R/o Chitawi Kala, P.S. & circle-Goreyakothi, Dist-Siwan filed a case before DCLR, Maharajganj in which present respondents were impleaded as o.ps. In the said case, the claim of the petitioner was that the land in question measuring 3 bigha 4 katha and 2 bigha 10 katha 8 dhur appertaining to khata No. 300 and 309 respectively is in their peaceful possession and they cultivate the same and pay rent but the o.ps forcibly loot the standing crops and also makes illegal interference so o.ps be restrained from making any interference. Thereafter, the learned DCLR after hearing the case finally after analysing the whole facts of the case and examining the documents of the parties vide order dt. 19.09.2013 dismissed the said case. Feeling aggrieved by the said order, the present petitioner has preferred the instant appeal petition before this Court.

Heard the learned counsel for the appellant only. The learned counsel for the respondent on the other hand consented to file written arguments.

The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted that the same is based on conjectures and surmises for the reason that the learned Court below did not consider the relevant facts of the case as well as the documents filed. He further argued that the learned Court has not appreciated the R.S. entry which is in the name of ancestor of appellant Mahadeo and Raghu. He also submitted that the learned lower court has not appreciated Award constituted in 1934 under chairman of SDO Siwan who declared that appellant's ancestor Raghu Mahto has been found in possession of disputed plot and make an award on 08.08.1934 alongwith other tenants and also not appreciated the findings in judgement passed by sub-judgs Chapra in T.S. No. 45/1939 filed by Dulhin Parmeshwari Devi against saria Kurmi and 35 raiyats. He also submitted that the lower Court did not consider the order passed by Hon'ble High Court in T.A. No. 16/42 by which both Court finds the entries in khata as correct. The learned counsel further argued that the learned lower Court has wrongly relied on the forged and fabricated documents of o.ps. He also argued that the learned Court ought to have considered that during the abolition of Jamindari, the return was given in the name of Raghu Koeri and Mahadeo Koeri, ancestor of appellant and Jamabandi created in their name on the basis of possession over disputed land. The learned counsel also submitted that Addl. Collector, Siwan vide order dt. 25.10.96 in Appeal No. 219/1996-97 filed by Suryadeo Singh dismissed the appeal and Commissioner, Saan in Mutation revision No. 96/96-97 filed by Suryadeo Singh and 7 others against Bhagrasari Bhagat dismissed the revision on 02.11.2002. The learned counsel lastly said that as the impugned order is illegal and arbitrary the same is fit to be set aside.

The learned counsel for the appellant in his written statement has discussed in detail about the entire course of events leading to coming of this case before this Court. He

specifically mentioned in the W.S. that from perusal of the reliefs claimed by the appellant it is clear that the appellant/petitioner requested the learned DCLR to decide his title in the disputed land and he also prayed for declaration that the respondents/o.ps have no title in the disputed land properly. The learned counsel further wrote that under the BLDR Act the appellant/petitioner was not entitled to any of the relief claimed and the learned DCLR was not at all competent to decide a complicated question of title involved in the case as such the case itself was not maintainable before the learned DCLR under the provision of BLDR Act. He further emphasised that the land in question is a private land of the respondents and the said land is neither allotted or settled land of any parties. The learned counsel also laid emphasis on the points that the learned DCLR was not competent to decide a complex question of title and the land in question is not allotted or settled land as such the case filed by appellant before DCLR was not maintainable and the impugned order passed by learned DCLR, Maharajganj is just and proper.

Considering the facts and circumstances of the case, material available on records, claims and counter-claims made by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case dispute between the parties relates to their respective claim over the disputed land on one or another basis. It is also seen that the contesting parties have already fought cases in different fora in the past for the said disputed land. It is also an admitted fact by the parties that in the instant case dispute relates to determination of a complex question of title of the parties. Obviously such a complex issue should not have been dealt by the learned DCLR as the relevant provision of the BLDR Act-2009 also prohibits the competent authority, the DCLR, from adjudicating the complex issue of title. However, it is seen that the learned DCLR instead of keeping tune with the relevant provisions of the BLDR Act-2009, went on to deal with such a complex question. As such the impugned order of 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.