

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 134/2014

Most. Shushila Kunwar & ors.

Vrs.

Prem Prasad & ors.

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Sonpur in BLDR case No. 81/2012-13 on 01.10.2013.

The brief facts of the case are that the present appellants Sushila Kunwar W/o Late Kamal Sharma and Baleshwar Sharma S/o Late Jagarnath Sharma, all resident of vill-Barbatha, P.S.-Sonpur, Dist-Saran filed a case before DCLR, Sonpur in which present respondents were made as o.ps. In the said case, the petitioners had had sought relief with respect to a piece of land measuring 2 katha 8 dhur of plot No. 91, khata No. 16 situated in vill-Barbatta to be measured by a survey knowing Commissioner and also to fix pillars on all four corners as the o.ps were bent upon on raising pucca house in their ancestral land. Thereafter, the learned DCLR heard the parties and on finding that the petitioner had failed to give required description of land to be measured and besides that non-impleading of all the boundary raiyats as parties in the case, he disallowed the said prayer of the petitioner vide order dt. 01.10.2013. 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 appearing on behalf of the appellants while assailing the impugned order submitted that the same is arbitrary and based on surmises and conjectures. He further argued that the learned DCLR has wrongly held that all the boundary men were not made as party in the case but the same was wrong as none of the boundary man has challenged the title of the appellant over 2 katha 8 dhur land which is a dih-basgit and ancestral land. He also argued that the learned DCLR ought to have passed order regarding demarcation in order to resolve the dispute. He lastly said that the impugned order is fit to be set aside.

The learned counsel appearing on behalf of the respondents strongly opposed the arguments forwarded by the learned counsel for the petitioner. He further submitted that all the boundary men were not made as parties in the case before the learned DCLR and even demarcation prayer was not fully supported by relevant documentary evidences regarding the disputed land to be measured. He lastly said that the case brought before learned DCLR by the appellant as petitioner was not maintainable as such the learned DCLR has rightly passed the order rejecting the prayer of the appellant.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order it appears that in the instant case dispute between the parties relates to measurement of raiyati land. It is also seen that the present appellant as petitioner had approached the learned DCLR for demarcation of her land after measurement but as she failed to establish her claim over the land stated to be measured through documentary evidence and it was on this ground her said prayer was rejected. The relevant portion of the said order reads thus.

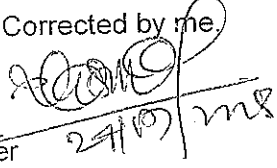


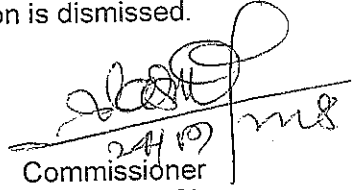
“ उभय पक्षों को सुनने तथा अभिलेख में संलग्न कागजातों के अवलोकन से प्रतीत होता है कि वादी के वाद पत्र में अंकित भूमि का व्योरा यथा खतियान के अनुसार कुल रकवा आदि अंकित नहीं है। तथा मकान के वाद चारों तरफ भूमि छोड़ा गया है इसके बारे में भी आवेदक ने कुछ नहीं कहा है। इसके अतिरिक्त प्रश्नगत भूमि के सभी चौहदीदारों को पक्षकार नहीं बनाया गया है। ऐसी परिस्थिति में वादीगणों के मापी संबंधी परितोष को स्वीकार नहीं किया जा सकता”

I do not find any apparent error in the said order. Even the learned counsel for the appellant also failed to prove any infirmity in the said findings of learned DCLR so as to enable this Court to make any interference in the said order.

For the aforesaid reasons, the instant appeal petition is dismissed.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.