

**In The Court of Commissioner, Saran Division, Chapra**

**B.L.D.R. Appeal No. 183/2015**

**Hari Narayan Bhagat & ors.**

**Vrs.**

**Thakur Bhagat & ors.**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in BLDR case No. 07/2015-16 on 16.06.2015.

The brief facts of the case are that the present respondent Thakur Bhagat, Ram Kishun Bhagat and Pawadhari Bhagat all sons of Ram Sawaroop Bhagat of village Ranipur, P.S.-Vijaipur, Dist-Gopalganj filed a case before DCLR, Hathua in which the present appellants were made as o.ps. In the said case before DCLR, the present respondents sought relief regarding restraining the o.ps (present appellants) from disturbing their peaceful possession over the land in their occupation which came to them after partition on muted consent of the land measuring 2 bigha 2 katha 8 ½ dhur of khata No. 56 spread in different plot Nos. situated in Mouza Basdewa. Thereafter, the learned DCLR, after hearing the case finally vide order dt. 16.06.2015 allowed the case. Feeling aggrieved by the said order, the present appellants (o.ps before DCLR) have preferred the instant appeal case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner at the very outset of his argument assailed the impugned order by saying that the same is illegal and without jurisdiction as the learned DCLR has got no power to decide title and possession of the parties under the provisions of BLDR Act. he further submitted that the learned DCLR has erred in deciding the matter under the BLDR Act rather he should have directed the parties to decide their case through, Civil Court. He further submitted that the entire disputed land belonged to Late Jangi Bhagat and after his death his heirs, who are the parties in the case claim their share and title and according to the respondents the land was divided half and half whereas the appellants claim that since their father had purchased the land by paying the money hence their claim lies on entire land. He also argued that as in the instant case dispute relates to title the learned DCLR should not have entertained the case and hence the order passed by him is fit to be set aside.

The learned counsel appearing on behalf of the respondents vehemently opposed the arguments forwarded by the learned counsel for the appellants and submitted that the impugned order is just and proper. He further submitted in detail as to how the said dispute between the parties, who are heirs of the Jangi Bhagat, arose. He also submitted that from the purchased land of Jangi Bhagat half share is of appellant and half share is of respondents and the learned DCLR decided the case in favour of the respondents and directed the appellants not to interference in the possession of the respondents. He also strongly submitted that it is complete a wrong pleading that in the instant case question of determination of title is involved rather it is a similar case under the BLDR Act and the learned DCLR has got jurisdiction to decide the same. He lastly said that as the impugned order is reasoned and proper the same is fit to be upheld.

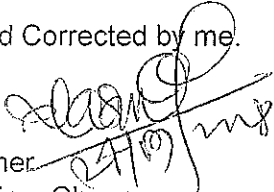


Considering the facts and circumstances of the case, material available records, claims and counter claim made by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case dispute between the parties relates to raiyati land and both parties lay their claim on one or another basis. The claim of the appellants is based on the ground that since the said land was purchased by his father the entire land came to them. On the other hand the claim of the respondents is that the said land fell in their share after partition. Obviously, the dispute pertains to claim over the land in question on different basis. The learned counsel for the appellants is of the view that such kind of dispute should not have been decided by the learned DCLR under the BLDR Act for the reason that the said act does not empower him to adjudicate the complex question of right, title and share of the parties. It is seen that the learned DCLR in his detailed order went on to record findings relating to respective share of the parties. In fact in non of the parties are settlee and allottee. It is also true that the present respondent as petitioner have initially approached the learned DCLR for restraining the present appellants from making any hindrance over his peaceful possession over his share but the ground set forth for justifying the said claim are somewhat complex in nature. Since the disputed land originally belongs to late Jangi Bhagat, common ancestors of the parties, obviously such complex issue of share etc. amongst the descendants can not be decided in a summary proceedings under the BLDR Act-2009.

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.