

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal case No. 348/2014**

**Gyasuddine**

**Vrs.**

**Musaffir Rai & ors.**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Chapra Sadar in Land Dispute case No. 80/2013-14 on 09.10.2014.

The brief facts of the case are that the present appellant, as petitioner filed a case before DCLR, Chapra Sadar vide Land Dispute case No. 80/2013-14 under the provision of Bihar Land Dispute Resolution Act-2009. In the said case the present respondents were made as o.ps. The prayer made and relief sought for by the present appellant in the said case was that his ancestral land and purchased land situated in Mouza purbari Telpa, having khata No. 228, plot No. 823, area 17 katha 4 dhur and khata No. 347, plot No. 824 area 8 katha 17 dhur, out of that his share be demarcated after measurement. Thereafter, the learned DCLR issued notices to the o.p (present respondent) and after hearing the case finally vide order dt. 09.10.2014 disposed of the case with the findings that in plot No. 823 as the o.p also claim 4 katha 6 dhur, as such it becomes necessary for determination of title of the parties first and regarding plot No. 824 he ordered for demarcation. Feeling aggrieved by the said order, the present appellant (petitioner before DCLR) has preferred the instant appeal before this Court.

The learned counsel appearing on behalf of the appellants at the very outset of his argument submitted that the order regarding plot No. 823 of khata No. 228 by the learned DCLR is illegal. He further argued that it has been wrongly held by the learned DCLR about the story raised by o.p. No.1 regarding 4 katha 6 dhur land stated to have been purchased by oral sale deed from Asraf Ali on 15.03.1970. He also argued that on the basis of false statement given by respondent No.1 the learned DCLR ordered for demarcation of only plot No. 824. The learned counsel further submitted that despite the fact that the petitioner raised the point that the very sale deed of the o.p. No.1 was false and concocted, the said plea was not considered by the learned DCLR. The learned counsel further pleaded with the help of genealogical table regarding the rightful claim of demarcation made by the appellant and the also tried to prove that the false claim made by respondent No.1 only with a motive to harass the appellant whereas no other respondents have any such motive. He lastly said that as the impugned order is erroneous and illegal the same is fit to be set aside and this appeal petition be allowed.

The learned counsel appearing on behalf of the respondent No.1 while opposing the arguments forwarded by the learned counsel for the appellant submitted that the impugned order is just and proper. He further argued that in the instant case dispute relates to two plots No. 823 and 824, in which different persons having their share and unless the shares are determined first how can demarcation be possible. He also said that in this case determination of complex question of right and title are involved as such the matter can only be resolved by complex Civil Court. He lastly said that the instant appeal petition is not maintainable under the BLDR Act as such the same is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, claims and counter claims raised by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that in the instant case dispute between the parties

relates to raiyati land. The present appellant has initially filed a case before learned DCLR, for demarcation of his share from two plots stated to have been his ancestral land. The claim of the respondent No.1 is based on the ground that he has purchased 4 katha 6 dhur land from plot No. 823 way back in the year 1970 from the rightful person having his share in that plot. Furthermore, from the pleadings of the parties it becomes quite obvious that the although case brought before learned DCLR for demarcation but in reality in the said case involved adjudication of question of title of the parties which has been claimed by them one or another basis. The learned DCLR in his order also recorded his specific findings with respect to plot No. 823 which reads thus:-

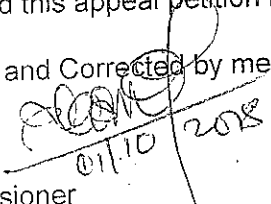
“ उभय पक्षों के विद्वान अधिवक्ता को सुनने व दाखिल कागजातों के अवलोकन के पश्चात् मैं इस निष्कर्ष पर पहुँचता हूँ कि:- 1) वादी ने दो प्लॉट नं०-823 के पूर्ण रकबा एवं प्लॉट नं०-824 के आधे रकबा के सीमांकन हेतु वाद लाया है, लेकिन इन दोनों प्लॉटों में से प्लॉट नं०-823 के सम्पूर्ण रकबा में से 4 कट्ठा 6 धुर पर विपक्षी के द्वारा दावा किया गया है। ऐसी स्थिति में प्लॉट नं०-823 विवादित हो जाता है एवं इसके स्वत्व निर्धारण की आवश्यकता है। 2) सर्वे नं०-824 रकबा 8 कट्ठा 17 धुर पर विपक्षी के द्वारा कोई आपत्ति दर्ज नहीं की गई है। इसलिए इस सर्वे नं०-824 की नापी करवाया जा सकता है।”

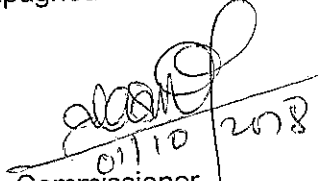
Thus, it appears that the case brought before learned DCLR was not maintainable under the BLDR Act for the reason that in the said case dispute regarding respective share of the parties was to be resolved first as held by the learned DCLR. It is also to be noted that none of the parties are allottee or settlee and even their case does not comes under any of the six acts mentioned in schedule-1 of the BLDR Act-2009.

For the aforementioned reasons, and keeping in view the judgement passed by Hon'ble High Court in CWJC No. 1091/2013 (Maheshwar Mandal & ors. Vrs The State of Bihar & ors.) on 31.07.2018 in which it has been 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.

  
01.10.2018  
Commissioner  
Saran Division, Chapra.

  
01.10.2018  
Commissioner  
Saran Division, Chapra.