

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

**B.L.D.R. Appeal No. 155/2011**

**Paras Nath Prasad**

**Vrs.**

**Must. Durgawati Devi & ors.**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan, Sadar in BLDR case No. 36/2010-11.

The brief facts of the case are that the present respondent Bachchan Prasad Burnwal, S/o Late Sadhu Prasad Sah, R/o Vill-Akhaunia, P.S.-Siwan Sadar, Dist-Siwan filed a case bearing BLDR case No. 36/2010-11 before DCLR, Siwan Sadar in which the present appellant was made as o.p. In the said case the claim of the petitioner before DCLR was that the disputed piece of land measuring 1 katha 2 dhur of khata No. 07, Kheshera No. 817 situated in Mouza Bhanta Phokhar, which was purchased by him on two occasion through sale deed in piece of 12 dhur and 10 dhur on 19.08.08 and 13.05.09 respectively from the descendants of the khatiyani raiyat. His further case was that when he started to construct house and shop over the said land the present appellant (o.p. before DCLR) sought Rangadari and stopped the construction work as such he be restrained from making any obstruction. The learned DCLR heard the matter and finally vide order dt. 01.09.2011 rejected the claim of the present appellant (o.p. before DCLR) and allowed the case in favour of the present respondent. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this Court. Meanwhile, during the pendency of this appeal the original respondent died which led to substitution of his legal heirs as respondents in this case.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted that the said order is illegal and unjustified. He further submitted that the learned competent authority would have held that the disputed land under impugned order operates under the express written "LICENCE" in the name of Govt. of Bihar, the agreement made by grandson Mala Koeri and Son Gagan Koeri of Khatiyani raiyat Ganesh Koeri, executed deed on 31.03.1995. He also submitted that the present respondent obtained false sale deed document executed by one Chote Lal Bhagat, which is illegal. He also argued that the impugned order is misconceived. The learned counsel further argued that the impugned order is bad and illegal under the circumstances that the learned competent authority must have ordered all sale deeds of the respondent as illegal. The learned counsel lastly prayed that the impugned order is fit to be set aside.

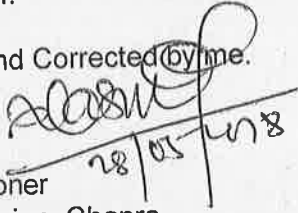
The learned counsel appearing on behalf of the respondent, opposed the arguments forwarded by the learned counsel for the appellant and submitted that the said disputed land was purchased by him. He further submitted that the said land has been mutated in his favour and he also used to pay rent to the Govt. whereas the appellant claim the said land exists in favour of Saheed Jagdeo Balika Vidyalaya on the basis of unregistered document and the disputed land is not in possession of the school. He lastly prayed that impugned order is just and proper as such the same be upheld.

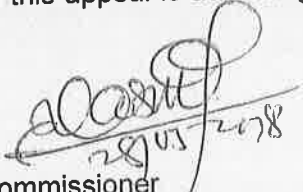


Considering the fact and circumstances of the case, material available on records, claims and counter claims made by he learned counsel for the parties and on perusal of the impugned order, it appears that the dispute between the parties relates to their respective claim over the said disputed land on one or another basis. The claim of the appellant is solely based on the ground that the said land has been transferred to school by the descendants of khatiyani raiyat and since then a school exists thereon. On the other hand the claim of the respondent is that the said land is purchased by him through sale deed from descendants of rightful ancestor. It has also been admitted by the parties that earlier a title suit case has been filed by the parties in the competent Civil Court for adjudication of their claim with respect to the said disputed land. Obviously the dispute between the parties relates to determination of right and title over the raiyati land.

For the aforesaid reasons and discussion made therein, it is clear that the impugned order is not sustainable. Hence the same is set aside and this appeal is accordingly disposed of.

Dictated and Corrected by me.

  
28/05/2018  
Commissioner  
Saran Division, Chapra.

  
28/05/2018  
Commissioner  
Saran Division, Chapra.