

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 22/2013

Ram Kumari Devi & ors.

Vrs.

Surendra Nath Chatterjee

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 65/101/2011-12 on 20.12.2012.

The brief facts of the case are that one Surendra Nath Chatterjee R/o Mohall-Naya Quila, P.S. & Dist-Siwan in the capacity of attorney by Smt. Safali Chatterjee @ Safali Majumdar filed a case as petitioner (the present o.p.) before learned DCLR, Siwan Sadar in which altogether seven private person alongwith state was made as o.ps (the present appellant). In the said case the claim of the present respondent as petitioner was that as he filed an application before C.O. for mutation of the entire area of plot No. 475/905 of khata No. 77, total area 2 bigha 4 katha 18 dhur which is recorded in khatiyani in the name of late Nalini Mohan Chatterjee, who happen to be his father. But only 2 katha 10 dhur land was mutated in his favour and the rest area of which Jamabandi were opened now being 232 to 237 in the name of other person as such the said Jamabandi be cancelled and the entire area mentioned in the gift deed document be mutated in his name. Thereafter, the learned DCLR after issuing notices to the parties heard the case and finally vide order dt. 20.12.2012 allowed the said case and also directed the C.O. to inquire about the possession over the said land personally and only after that take decision in the matter in accordance with law. Feeling aggrieved by the said order, the present appellant has approached this Court in appeal wherein the impugned order of DCLR is order challenge.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that in the instant case dispute is completely related with title and the o.p. has already filed a Title Suit No. 672/09 then in that condition the learned lower Court should not have passed an order. He further argued that the present (petitioner before DCLR) has no locus standi to file the case as he has got no right title and possession over the land in question. He also argued the case filed by the respondent before DCLR related with the cancellation of Jamabandi and such kind of dispute is not covered under BLDR Act-2009. He lastly argued as the impugned order is arbitrary and without jurisdiction the same is fit to be set aside.

The learned counsel for the respondent on the other hand vehemently opposed the argument forwarded by the learned counsel of the appellant and briefly submitted that since the impugned order is an interlocutory order against which no appeal can be filed. He further argued that the impugned order is just and proper having no illegality. He also argued in detail as to how the present respondent is legally permissible to contest the case and for that his locus standi can not be questioned. He lastly submitted that the impugned order is just and proper and fit to be upheld.

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 is seen that in the instant case dispute between the parties relates to their

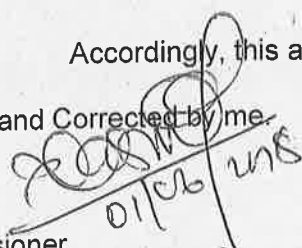


respective claim over the khatiyani land what stated to have been acquired by them through inheritance or through purchase by the rightful owner. Furthermore, dispute relating to Jamabandi existing with respect to certain land needs to be cancelled and measurement of the land to be done as prayed for by the present respondent before the learned DCLR. Obviously the instant dispute between the parties is not covered by any of the six enactments mentioned in schedule-1 of the BLDR Act. In fact the learned DCLR should not have entertained the said case under the BLDR Act. Prior to coming up of the Bihar Land Mutation Act.2011, Bihar Tenants Holdings (maintenance of Records) Act, 1973 with Rules were operative for dealing with the question of dispute relating to creation/cancellation/correction in Jamabandi. Dispute relating to cancellation of Jamabandi is by no way covered under the BLDR Act. It is also to be noted that the learned counsel for the appellatant laid maximum emphasis on the point that the dispute between the parties relates to determination of title over the disputed land. This plea seems to be true in view of the fact that the plea raised by the parties before the competent authority related to their possession over the land and they tried to prove their possession over the land in question through different ways like inheritance, purchase and execution of sale deed by the raiyat. The learned DCLR should not have looked into such kind of dispute under the BLDR Act.

Thus, for the aforesaid reason, the impugned order is not sustainable and hence the same is set aside.

Accordingly, this appeal application is disposed of.

Dictated and Corrected by me.


01/06/2018
Commissioner
Saran Division, Chapra.


01/06/2018
Commissioner
Saran Division, Chapra.