

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 91/2014
Rama Shankar Choudhary & ors
Vrs.
Raman Choudhary
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in Land Dispute case NO. 77/2013-14 on 14.02.2014.

The brief facts of the case are that the present respondent Raman Choudhary, S/o Chathu Choudhary, R/o Vill-Mahanthwa, P.S.-Kateya, Circle-Panchdeori, Dist-Gopalganj filed a case before DCLR, Hathua in which the present appellants were made as o.ps. In the said case the petitioner sought relief that his possession be recovered over the land settled to him by Bhoodan Yagna Committee from which he has been dispossessed by the o.ps (present appellants). The learned counsel after hearing the parties finally vide order dt. 14.02.2014 allowed the said case and also directed the local C.O. to ensure the possession of Bhoodan donee and also initiate process for fixation of rent. Feeling aggrieved by the said order, the present appellants (o.ps before DCLR) have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant at the very beginning of his argument submitted that the impugned order is against the facts on record. The learned counsel further argued on the merit of the case and submitted that the said land was recorded as Gair Mazurwa Malik land and much before the abolition of Zamindari the said land was settled by the Ex-landlord in the name of Kodai Ahir for constructing house and also issued receipt on 10.05.1935 and since then the appellant's ancestor has been coming in possession. He further said that on the said settled land, measuring 5 katha 5 dhur, the ancestors of the appellant built their residential house and remaining part being used as Sahan. The learned counsel further argued that the respondent's claim is solely based on the so called Bhoodan settlement but he came in possession over the said land so no question of dispossession arose at all. He further said that the learned DCLR without considering all the facts elaborately, held the claim of the respondent to be true on the basis of Bhoodan certificate. He also criticized the impugned order that a petition filed by the appellant on 11.02.2014 for local inspection of the said disputed land but no order was passed on that petition and ultimately the case has been allowed. He lastly submitted that as the impugned order is arbitrary and cryptic, the same is fit to be set aside.

The learned senior counsel appearing on behalf of the respondent, while strongly opposing the arguments forwarded by the learned counsel for the appellants, submitted that since the learned DCLR has decided the matter, there is no need to look into the same issue again and in support of his said contention he referred to various provisions of the BLDR Act. The learned counsel further submitted that the respondent is a Bhoodan settlee and Bihar Bhoodan Yagna Act



has been mentioned at serial No. 4 of schedule 1 of the BLDR Act and section 4(2) of BLDR Act clearly lays down that the competent authority shall not have jurisdiction to review or reopen any finally concluded and adjudicated proceeding under any of the Acts contained in schedule-1. He lastly said that as the order passed by DCLR is in accordance with law, the same must be upheld and this appeal petition being devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, pleadings forwarded 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 disputed piece of land on one or another basis. The claim of the appellant is that the said disputed land was settled to his ancestor by the Ex-landlord after taking nazarna and also issued receipt in the year 1935. On the other hand, the claim of the respondent is that the said land was donated to the Bihar Bhoodan Yagna Committee by the Ex-landlord and Bhoodan Yagna Committee settled the said land to his father and ever since then he has been coming in possession. I find that the learned DCLR has decided the matter by considering each and every aspects of the case logically before arriving at the final findings of fact regarding the claim of the respondent that he is a bonafide settlee of Bihar Bhoodan Yagna Committee and he turned down the claim set up by the present appellant as o.ps before him for the reasons that he failed to substantiate his claim through other documentary evidences. The learned counsel for the appellant has miserably failed to point out any specific illegality in the impugned order so as to warrant any interference from this Court.

For the aforementioned reasons, the impugned order is upheld.

Accordingly, this appeal petition is dismissed.

Dictated and Corrected by me.


21/09/2017
Commissioner
Saran Division, Chapra.


21/09/2017
Commissioner
Saran Division, Chapra.