

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal No. 51/2015**  
**Virendra Dubey**  
**Vrs.**  
**Ram Kumar Pandey**  
**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 138/316/2013-14 on 05.06.2014.

The brief facts of the case are that the present respondent Ram Kumar Pandey S/o Late Ram Roop Pandey R/o Vill-Ramgarh, P.O.+P.S.-Sishwan, Dist-Siwan filed a case under the BLDR Act-2009 before DCLR, Siwan Sadar in which the present appellant was made as o.p. In the said the relief sought by the present respondent (petitioner before DCLR) was that the land measuring 2 katha 1 dhur of khata No. 247, plot No. 2672 situated in Mouza Ramgarh which has been purchased by her father over which the o.p. (present appellant) has encroached some part of the said land as such after measurement his possession be recovered. Thereafter, the learned DCLR after hearing the case finally vide order dt. 05.06.2014 allowed the said case and also ordered for measurement and demarcation of the disputed land. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this Court.

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 legally not sustainable as the learned lower Court without appreciating the documentary evidence on record passed the order. He further said that the learned lower Court ought to have held that the Court has no jurisdiction to decide the complicated question of title and possession. He also drew the attention by saying that the learned lower Court ought to have held that Court has no jurisdiction to order for demarcating portion of a plot according to provisions of Bengal Survey Act. The learned counsel further argued in detail regarding the claim of the appellant and strongly said that the learned DCLR has no jurisdiction to order for removal of the encroachment from private land. He lastly said that as the impugned order is without jurisdiction, the same is fit to be set aside.

The learned counsel appearing of the respondent while opposing the arguments advanced by the learned counsel for the appellant submitted that the impugned order is just, proper and valid as the same has been passed after careful consideration of the material facts of the case and the same is also not an extra-jurisdictional order. He further submitted that all the grounds framed by the appellant in his appeal petition are based on imaginary facts as such the appeal petition itself is not maintainable and deserves to be rejected.

Considering the facts and circumstances of the case, material available on records, pleadings made 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 private land. Both parties lay their claim on one or another basis. In fact none of them qualifies to be considered as allottee or settlee. It is seen that the present respondent as petitioner before DCLR, sought relief for recovery of possession after removal of the alleged encroachment from the private land what stated to have been acquired by his father through sale deed. This is enough, to show that the petitioner had sought relief what can not be considered under the BLDR Act.

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 judgment in CWJC No. 1091/2013 (Maheshwar Mandal & ors The State of Bihar & ors) on 24.06.2014 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 observations made by the division bench of the Hon'ble High Court as quoted above, the impugned order of DCLR is set aside and the appeal is accordingly disposed of.

Dictated and Corrected by me

  
Commissioner  
Saran Division, Chapra.

  
Commissioner  
Saran Division, Chapra.