

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 136/2014

Jitan Rai & ors.

Vrs.

Gauri Shandar Mahto

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajanj in Land dispute Resolution case No. 145/2013-14 on 29.03.2014.

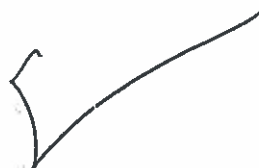
The brief facts of the case are that Gauri Shankar Mahto, S/o Chinawan Mahto, R/o-Balaha Ali Mardanpur, Circle-Bhagwanpur Hat, Dist-Siwan filed a case before DCLR, Maharajanj in which the present appellants were o.ps. In the said case the prayer made for that the disputed piece of land measuring 17 dhur out of plot having area 3 katha 10 dhur of khata No. 17, plot No. 387 came to him, from which the present appellants (o.ps before DCLR) tried to dispossess him and also created disturbance as such they be restrained from doing so. Thereafter, the learned DCLR after hearing the case finally vide order dt. 29.03.14 allowed the said case. Feeling aggrieved by the said order, the present appellants hence preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties

The learned counsel appearing on behalf of the appellants at the very outset of his argument, submitted that the impugned order is illegal and beyond jurisdiction for that the learned lower Court has erred in not considering that a complicated question of title is involved in the case and the learned DCLR has no jurisdiction to adjudicate the same. He further argued that the learned lower Court has erred in not considering the fact that the disputed land was sold to the ancestor of the appellants in the year 1954 and the same was sold to the vendor in the year 1919 by the brother of Grand father of the respondent and also not holding the sale deed of the respondent as illegal, forged and fabricated. He lastly submitted that as the learned DCLR has passed order beyond jurisdiction, the same is fit to be set aside.

The learned counsel for the respondents, on the other hand strongly opposed the arguments forwarded by the learned counsel for the appellants and said that the impugned order is just, proper and valid and the same is fit to be upheld. He further argued in detail about the whole matrix of the case and submitted that the respondent is the rightful owner of the disputed land and earlier a proceeding of 145 Cr. P.C. between Laljhari Devi and these appellants was initiated and the same was disposed of on compromise. He lastly said that since the impugned order has been passed by the DCLR is well under his jurisdiction under the provision of BLDR Act. the said order is fit to be upheld and this appeal be dismissed.

Considering the facts the circumstances of the case, material available on the records and on going through the respective submissions advanced by the learned counsel for the parties, it is seen that the dispute between the parties mainly relates to right, title and interest over the disputed piece of land. It is seen that the



appellant's claim is solely based on the ground that the said disputed land was sold to his ancestor as such they have got absolute right over the disputed land whereas the respondents claim that he is the rightful owner of the said disputed land.

Thus, it is quite apparent that there involves determination of complex question of right and title and it is well settled that such a complex issue can not be decided under the BLDR Act. The Hon'ble High Court also in its judgment in CWJC No. 1091/2013 (Maheshwar Mandal and others vrs The State of Bihar and others) on 24.06.2014 has clearly 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 and also held that complex question of title can never be decided in a summary proceedings.

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.


31/08/2017
Commissioner
Saran Division, Chapra.


31/08/2017
Commissioner
Saran Division, Chapra.