

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 143/2014

Prabhawati Devi.

Vrs.

Surendra Sah & ors.

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR Marhaurah in case No. 121/2013-14 on 31.03.2011.

The leaned counsel for the appellant was found absent when the case came up for hearing on 22.06.2016.

The learned counsel for the respondent, on the other hand, strongly pleaded for dismissing the case in view of the observation made by the learned DCLR in the impugned order. He further submitted that the dispute between the parties relates to measurement of the land in question whose very title itself is under dispute. He further submitted that such complex issue can not be decided under the provision of the BLDR Act-2009 as observed by the Hon'ble High Court in the case of Maheshwar Mandal Vrs The State of Bihar.

However in my considered view it would be fair to dispose of this case on merit for the ends of justice. The claim raised by the appellant in he memo of appeal petition is taken into account for that purpose.

The learned counsel for the appellant in his appeal petition specifically mentioned that the learned DCLR, without considering the relevant facts of the case, passed the order in a mechanical manner which is bad in law. He further mentioned that the learned lower Court should have allowed the case of the appellant holding that the disputed land is appellant's ancestral property and she has ½ share towards western side which is essential to demarcate. He further mentioned that it was wrongly held by the lower Court that Civil Suit was pending between parties and also mentioned that the order of learned DCLR is improper and illegal and even the said order could not have been passed under the provisions of BLDR Act-2009 and hence the said order is fit to be set aside.

In above view of the matter, I do not find any logic to prolong this case further in absence of any genuine interest of the appellant which is very much apparent due to his absence without filing any time petition on the day of hearing.

For the aforesaid reasons, this appeal petition dismissed accordingly.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.