

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 33/2014

Madan Pandit.

Vrs.

Jawahir Dhobi & ors.

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in Bihar Land Dispute Resolution case No. 76/249/2013-14 on 27.12.2013.

This case was taken up for hearing on 22.06.17. The learned counsel for the appellant was absent.

The learned counsel for the respondent on the other hand, strongly pleaded for disposing of the case by ex-party order and also forwarded his arguments in support of his case.

However, as the appellant's counsel was absent it would be fair to dispose of this case on merit only after going through the grounds set forth by the appellant in memo of appeal petition.

The learned counsel for the appellant in his memo of appeal petition after discussing in detail about the facts of the case assailed the impugned order of DCLR by saying that the said order has been passed without considering the documents on record. He further mentioned that the learned DCLR ought to have held in the case, complicated question of title and possession is involved and the Court has no jurisdiction to decide such complicated question. He also mentioned that learned Court below ought to have held that since a 2nd appeal No. 148/2013 is pending before Hon'ble High Court with respect to the disputed land hence the Court has no jurisdiction to pass any order. His last prayer was that the impugned order be set aside.

Considering facts and circumstances of the case, material available on records and on perusal of the impugned order, it appears that the dispute between the parties basically relates to adjudication of their respective claim relating to title and possession over the disputed land. Obviously, the learned DCLR should not have dealt with such a complex issue under the provision of BLDR Act-2009. Even the Hon'ble High Court also held in the case of Maheshwar Mandal Vrs The State of Bihar & ors. that adjudication of complex question of right, title and possession is outside the purview of the BLDR Act-2009.

For the aforesaid reasons, the impugned order of DCLR, Siwan Sadar is not sustainable and accordingly the same is set aside. Hence this appeal petition is disposed of.

Dictated and Corrected by me.


11/07/2017
Commissioner
Saran Division, Chapra.


11/07/2017
Commissioner
Saran Division, Chapra.