

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 165/2015
Chandradeo Raut & ors.
Vrs.
Narbdeshwar Singh
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 80/2014-15 on 20.03.2015.

The brief facts of the case are that the present respondent Narbadeshwar Singh @ Umakant Prasad Singh, S/o Late Shivdani Singh, R/o Vill-Barkagaon, Circle-Bhagwanpur Hat, Dist-Siwan filed a case, as petitioner, before DCLR in which the present appellants were made as o.ps. In the said case, the petitioner sought relief that the land in question over which the petitioners possession has been coming since 1960, over which the o.ps are trying to capture the same so they be restrained from their said act. Thereafter, the learned DCLR after hearing the parties finally vide order dt. 20.03.2015 restrained the o.ps from making any interference over the said disputed land. 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 appellants, at the very outset of his arguments, submitted that the impugned order is unjust, improper and illegal in the eyes of law and the same is fit to be set aside. He further argued that the learned DCLR has got no jurisdiction to pass such order in this case because respondent has got no right or title over the disputed land involved in this case as such his claim was not maintainable before DCLR. He also highlighted the point that there is a complex question of title involved in this case which can never be decided by the Court of DCLR as per provision made in the BLDR Act. The learned counsel further dealing with the facts of the case submitted that the appellants have inherited the disputed lands of this case from their ancestors and their ancestors got the same by way of registered Patta settled by the real owner of the same. He further submitted in detail as to how the respondents tried to capture the said land on the basis of forged documents in the past which has been declared forged and set aside by the Addl. Sub-Judge-7, Chapra. He lastly submitted that as the impugned order is arbitrary and beyond the scope of the BLDR Act, the same is fit to be set aside.

The learned counsel appearing on behalf of the respondent strongly opposed the arguments forwarded by the learned counsel for the appellant and submitted that this appeal petition has been preferred on frivolous grounds and the averments made in different parts of the memo of appeal petition is totally wrong and baseless. He further submitted in detail as to how the respondent came to acquire the said disputed land after a compromise decree of title suit No. 66/1960 and 56/1960 and also got a registered conditional sale deed executed by Umakant Singh in favour of Prano Kunwar on 26.11.2013 for five year. He also submitted that the appellants



have got no concern with the disputed land. He lastly said that as all the matter have been decided by the leaned lower Court of DCLR and he also rightly restrained the appellants from going over the disputed land. The said order is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, claim and counter claims made by the learned counsel for the contesting parties and on perusal of the impugned order, it is quite obvious that in the instant case involved adjudication of complex question of right, title and possession of the parties over the disputed land. Both parties lay their claim over the said land on one or another basis. However, non of the parties qualify to be considered as allottee or settlee of the disputed land rather they want for their raiyati right accrued to them either by way of registered Patta or conditional sale deed. Obviously such a complex issue can not be decided under the BLDR Act. In fact, the learned DCLR should not have entertained the case in view of the complex nature of the dispute brought before him for resolution 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 Vrs 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 observation made by the division bench of the Hon'ble High Court as quoted above, the impugned order of DCLR is set aside and this appeal petition is accordingly disposed of.

Dictated and Corrected by me.

Commissioner
Saran Division, Chapra.

Commissioner
Saran Division, Chapra.