

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 57/2015
Ashok Kumar Singh & ors.
Vrs.
Rahman Hazam & ors.
ORDER

The instant appeal is directed against the impugned order passed by DCLR, Hathua in Land Dispute case No. 60/2014-15 on 27.01.2015.

The brief facts of the case are that the present respondent, Rahman Hazam and others all residents of vill-Sampur, P.S.-Uchkagaon, Dist-Gopalganj filed a case before DCLR, Hathua under the provisions of BLDR Act-2009 in which the present appellants were made as o.ps. In the said case the prayer of the respondents (petitioner before DCLR) was that in the revenue records of Uchakagaon circle, the name of present respondents be mutated in their place after calling the relevant records. Thereafter, the learned DCLR, heard the case and finally vide order dt. 27.01.2015 with the observation that for decision in the matter the parties can approach the competent Civil Court and also restrained the o.ps from making any interference in the said land. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel for the appellant at the very outset of his argument submitted that the learned DCLR had no jurisdiction under the BLDR Act. 2009 to entertain the claim of the respondent. He further submitted that such kind of dispute can be looked into under the provisions of Bihar Mutation Act. 2011 only. He also argued that once the right, title and interest of the recorded tenants of R.S. khata No. 63 was decided in auction sold in T.S. No. 69/32 and as per execution case No. 670/32, the respondent can not make any claim on the basis of the entry made in R.S. khata No. 63. He lastly said that as the impugned order passed by learned DCLR is extra jurisdictional order, the same is fit to be set aside.

The learned counsel for the respondent opposing the pleadings forwarded by the learned counsel for the appellant and submitted that the respondent 1st. set filed BLDR case for restraining the appellants and respondent 2nd set from interfering in possession of the respondent 1st set and also restraining from mutating their names. He further argued that the claim of appellant with regard to auction purchase and also for Execution case are fraudulent proceeding as the said order had been passed Ex-parte and since 1935 and till today no step for correction of jamabandi has been taken by the appellants. He lastly submitted that the impugned order is valid and proper and the same is fit to be upheld.

Considering the facts and circumstances of the case, material available on records rival submissions made by the contesting parties and on perusal of the impugned order, it is quite obvious that the dispute amongst the parties relates to their



respective claim over private land on one or another basis and non of them comes under the purview of allottee or settlee. In fact the case itself was not maintainable before the learned DCLR in view of the nature of dispute involved. The learned DCLR should not have decided the matter. But he went on to decide the complex question of parties regarding title etc.

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.