

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 85/2014
Hazara Khatoon
Vrs.
Jamir Hussain

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in Land Dispute case No. 20/2011-12 and Execution case No. 02/2013-14 on 22.09.2011 and 30.01.14 respectively.

The brief facts of the case are that one Jamir Hussain, S/o Gulab Hussain, R/o vill-Hathua, P.S.-Hathua, Dist-Gopalganj filed a case before DCLR, Hathua in which the present appellant was the o.p. In the said case, the petitioner sought relief for eviction of a dilapidated small room standing on plot No. 125 of khata No. 225 which was rented to the present appellant (o.p. before DCLR). Thereafter, the learned DCLR through an ex-parte order disposed of the said case in favour of the petitioner (present respondent). As the order passed by DCLR remained unexecuted the said petitioner filed another case before him bearing Execution case No. 01/2013-14 which was disposed of on 30.01.2014. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this Court.

Heard the learned counsel for parties.

The learned counsel appearing on behalf of the appellant in his brief argument strongly submitted that the case before DCLR was not maintainable in view of the relief sought for by the present respondent. He further said that the respondent could have approached the different forum under the different Act for his relief. He also contended that in view of the order passed by Hon'ble High Court in the case of Maheshwar Mandal & ors Vrs The State of Bihar & ors. this case is not even maintainable before this Court as such this appeal petition as well as the impugned order is fit to be set aside.

The learned counsel for the respondents, on the other hand submitted that the impugned order of DCLR is no way illegal or arbitrary rather the appeal petition itself is hopelessly time barred as such this appeal petition is liable to be dismissed. He further submitted that as a room was rented to the appellant by the respondent on rent without making any agreement and when the appellant refused to vacate the same, the respondent approached the learned DCLR who after considering the relevant documents allowed the said case. As such the impugned order is valid and proper.

Considering the facts and circumstances of the case, material available on records, respective arguments advanced by the parties and on perusal of the impugned order, it is seen that in the instant case dispute between the parties relates to a room which was earlier rented by the respondent to the appellant on certain rent. It is also seen that the learned DCLR went on deciding such kind of dispute which was not in his jurisdiction as per the provision of the BLDR Act. Obviously such kind of order passed by the competent authority with regard to eviction matter and



subsequently entertaining the petition for execution of the earlier order can not be upheld for the reason that the learned DCLR is not competent to deal with such matter under the BLDR Act.

For the aforementioned reasons, the impugned orders of learned DCLR, Hathua are not sustainable and hence the same are set aside and accordingly this appeal petition is also dismissed for want of merit.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.