

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 40/15
Ram Naresh Singh.
Vrs.
Janardan Singh & ors.

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 54/2014-15 on 23.11.2014.

The brief facts of the case are that the present appellant Ram Naresh Singh, S/o Late Ram Chandra Singh, R/o Vill-Dilsadpur, P.S.-Bhagwanpur Hat, Dist-Siwan filed a case as petitioner in which the present respondents were made as o.ps. In the said case the prayer of the petitioner was that the part of land case in his share having area 2 katha 8 dhur in plot No. 334, khata No. 53 on which the o.ps were restraining him from going on the said land. His further prayer was that the o.ps be restrained from making any obstruction in running his Atta Chakki and possession be delivered of the disputed land. Thereafter, the learned DCLR, after hearing the case and finally vide order dt. 23.11.2014. Feeling aggrieved by the said order the present appellant has preferred the instant appeal.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order submitted that the said order is not maintainable in the eyes of law and fact both. He further submitted that this appellant filed a case before DCLR in which present respondents were o.ps with a prayer to restrain them from illegal intervention over the disputed land but the learned DCLR in collusion with the respondents turned this case into different direction of partition and passed the impugned order without jurisdiction. He further argued that the appellant has already filed a Civil Suit in the Court of Munsif-2, Siwan vide suit No. 93/14 with respect to the disputed land of this appeal. The learned counsel also submitted that the learned DCLR without considering the complexity of dispute imposed a fine of rupees three thousand on the appellant and also ordered to seize the diesel generating set and flour machines. He lastly said that the said order is highly improper and without jurisdiction so the same is fit to be set aside.

The learned counsel appearing on behalf of the respondent in his brief argument submitted that the dispute between the parties relates to raiyati land as such the impugned order is beyond jurisdiction and the appellant has filed Civil suit in competent Court, hence this appeal be disposed of.

Considering facts and circumstances of the case, material available on records pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is quite apparent that the competent authority the learned DCLR in overzeal passed the impugned order which is not sustainable under the BLDR Act. In fact he should have taken into consideration the real facts of the case before passing the impugned order. The learned counsel for the parties also admit that the dispute



essentially involves regarding respective share and possession over the disputed land and neither of them is settlee and allottee as such the learned DCLR should not have decided the case under the BLDR Act. in the light of observations made by the Hon'ble High Court in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors.

For the aforementioned reasons, the impugned order of DCLR is set aside and accordingly this appeal petition is disposed of.

Dictated and Corrected by me


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.