

**In The Court of Commissioner, Saran Division, Chapra**

**B.L.D.R. Appeal No. 374/2013**

**Laldeo Sah & ors.**

**Vrs.**

**Swaminath Prasad & ors.**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in Land Dispute Resolution case No. 11/2013-14 on 25.09.2013.

The brief facts of the case are that one Laldeo Sah and three others, all resident of village Majhawalia, P.S.-Jamobazar, Circle-Goreya Khoti, Dist-Siwan filed a case before DCLR, Maharajganj in which present respondents were made as o ps. In the said case, the prayer of the present appellants was that the land in question measuring 3 katha 15 dhur of khata No. 85 and of plot No 73 was their ancestral land and they are the descendants of khatiyani raiyat and the present o ps want to forcibly capture the same and for which they create disturbance. Thereafter, the learned DCLR after hearing the case finally vide order dt. 25.09.2013 rejected the said case on the basis of the sale deed documents of the parties and there legal validity. Feeling aggrieved by the said order the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the appellants only as the leaned counsel for the respondent remained absent on the day of final hearing despite being given last chance on 10.08.17 vide order dt. 22.06.17 by this Court.

The learned counsel appearing on behalf of the appellant in his detailed argument submitted at the very beginning that the impugned order is illegal and erroneous as the same has been passed without application of mind. He further submitted that the learned Court below has got neither jurisdiction to decide title nor declaration of title the deeds void or illegal. He further argued that in view of the nature of dispute between the parties the learned DCLR ought to have directed the parties to approach the competent Civil Court for the adjudication of dispute but instead of doing so he went on to verify, the genuineness of the sale deed documents of the parties as such his order his beyond jurisdiction and fit to be set aside.

Considering the facts and circumstances of the case, material available on records, pleading advanced by the learned counsel for the appellant and on perusal of the impugned order, it is quite obvious that the dispute between the parties basically relates to raiyati land. However, it also appears that learned DCLR without taking into consideration the nature of dispute brought before him for adjudication, went on to decide the claim of the parties on the basis of their respective sale deed documents which is not permissible for him under the BLDR Act. The leaned counsel for the appellant also assailed the impugned order for the reason that complex issue of adjudication of right, title and possession can not be decided by the DCLR under the provision of BLDR act and in support of this he also



cited the decision of Hon'ble High Court given in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors. The said proposition of the learned counsel is fully acceptable vis-a-vis the nature of dispute involved in the instant case. I find that the learned DCLR should not have entertained the case rather he should have directed the parties to approach the competent Civil Court for seeking relief. Thus, for the reason mentioned above, the impugned order can not be upheld as such the same is set aside and in the result, this appeal petition is also dismissed for lacking merit.

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.

  
Commissioner  
Saran Division, Chapra.