

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 218/2014
Usman Aansari & ors.
Vrs.
Subhan Aansari
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 23/2014-15 on 21.07.2014.

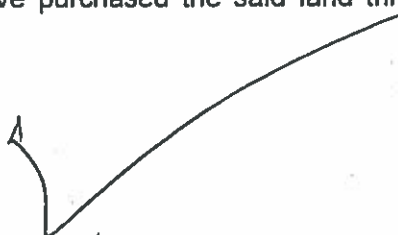
The brief facts of the case are that the Subhan Aansari, S/o Late Ekbal Aansari, R/o vill-Brahmsthan, P.S. Bhagwanpur Hat, Dist-Siwan filed a case before DCLR in which the present appellants were made as o.ps. In the said case the petitioner sought relief regarding declaration of title, confirmation of possession and further to demarcate the suit land stated in the plaint. The learned DCLR after hearing the parties, allowed the said case vide order dt. 21.07.2014. Feeling aggrieved by the said order the present appellants (o.ps before DCLR) preferred the instant appeal petition in which the impugned order has been challenged.

Heard the learned counsel for the parties

The learned counsel appearing on behalf of the appellants which assailing the impugned order, strongly submitted that the impugned order is illegal and without jurisdiction because the Court of DCLR is not competent and having no jurisdiction to decide title and possession under the provision of BLDR Act. He further submitted in detail about the towards of the case and finally concluded his arguments saying that the dispute between the parties relates to their respective claim over the land stated to have been acquired through sale deeds from the descendants of the Jhuman Mia. He lastly said that as the impugned order has been passed without considering the relevant documents, the said order is erroneous and fit to be set aside.

The learned counsel for the respondents, on the other hand, strongly opposed the arguments forwarded by the learned counsel for the appellants and submitted that it is wrong to say that in the instant case there involve adjudication of complex question of title. He further submitted that as to how the respondents came in possession over the said land through sale deed executed by the legal heirs of the khatiyani raiyat. He also said that the learned DCLR after carefully considering all aspects of the case finally passed the order which is legal, valid and proper and the same is also maintainable under the BLDR Act. As such the impugned order is fit to be upheld.

Considering the facts the circumstances of the case, material available on the records and on going through the respective submissions advanced by the learned counsel for the parties, it is seen that the dispute between the parties mainly relates to right, title and interest over the disputed piece of land. It is seen that the appellant's claim is solely based on the point that they have purchased the said land through sale deeds as such they have got absolute right over the disputed land whereas the respondent claims to have purchased the said land through registered sale deeds also from the raiyat.



Thus, it is quite apparent that there involves determination of complex question of right and title and it is well settled that such a complex issue can not be decided under the BLDR Act. The Hon'ble High Court also in its judgment in CWJC No. 1091/2013 (Maheshwar Mandal and others vrs The State of Bihar and others) on 24.06.2014 in which it has been clearly 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 and also held that complex question of title can never be decided in a summary proceedings.

For the aforesaid reasons and discussion made therein, it is clear that the impugned order is not sustainable, hence the same is set aside and this appeal is accordingly disposed of.

Dictated and Corrected by me.


31/08/2017
Commissioner
Saran Division, Chapra.


31/08/2017
Commissioner
Saran Division, Chapra.