

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

**B.L.D.R. Appeal No. 138/2014**

**Srikant Rajbhar**

**Vrs.**

**Jugal Ram & ors.**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in Land Dispute case No. 29/2013-14 on 31.03.2014.

The brief facts of the case are that the present appellant Srikant Rajbhar, S/o Late Chokat Rajbhar, R/o vill-Hussepur Briti Tola, Circle-Bhore, Dist-Gopalganj filed an application in the Janta Darbar of D.M. Gopalganj and the said application was sent to the DCLR, Hathua vide letter No. 2032 dt. 28.11.2013. Thereafter, the appellant (petitioner before DCLR) filed a supplementary petition also before DCLR in which present respondents were made as o.ps. The case of the appellant before DCLR was that the land in question measuring 2 katha 8 dhur of khata No. 1544, plot No. 5320 situated in Mouza Bharpatia which was purchased by him through registered sale deed from the rightful owner from which he has been dispossessed illegally over which his possession be recovered. Thereafter, the learned DCLR heard the case and finally vide order dt. 31.03.2014 dismissed the said case. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel in his brief argument submitted that the disputed land was actually purchased by the appellant through registered sale deed from the descendants of the rightful owner in 2013 and since then he has got his possession over that. He further submitted that when the respondent illegally dispossessed him from the said land, the appellant approached the Janta Darbar of D.M. Gopalganj with a prayer that his possession be recovered. He also argued that the learned DCLR without considering the relevant documents dismissed the case holding that the said land was sold by the khatiyani raiyat in the year 1937. The learned counsel lastly said that the learned DCLR has got no power under the BLDR Act to decide the title of the parties or to order for recovery of possession and hence the impugned order is illegal and the same is fit to be set aside.

The learned counsel for the respondent instead of forwarding oral submission stated that he would file his W.S. but till date no W.S. has been filed.

Considering the facts and circumstances of the case, material available on records and on perusal of the impugned order, it is quite obvious that in the instant case, dispute between the parties relates to their respective claim over the disputed land on one or another basis. The claim of the appellant is that the said land was purchased by him through registered sale deed whereas the claim of the respondent before DCLR was that he got the said land purchased in the year 1937 and having his possession over that. Obviously such a complex issue should not have been adjudicated by the learned DCLR as he has not been vested with the power under the BLDR Act to look into the matter involving determination of complex question of right, title and interest pertaining to raiyati land. As the learned DCLR has passed the order, under the BLDR Act the said impugned order is not sustainable and can not be upheld. In fact, the case itself was not maintainable before the DCLR



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.