

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 343/2013

Anju Devi & ors.

Vrs.

Haribansh Rai

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Sonpur in Land Dispute case No. 74/2012-13 on 18.10.2013.

The brief facts of the case are that Haribansh Rai, S/o Late Hardeo Rai, R/o Vill-Rahardiyara, P.S.-Sonpur, Dist-Saran filed a case before DCLR, Sonpur with a prayer for measurement of 2 katha 10 dhur land of khata No. 14 survey plot No. 10 which was purchased by him through three registered sale deeds from the title holders. Thereafter, the survey knowing Commissioner measured the land and fixed pillar and accordingly submitted his report to the DCLR which was subsequently confirmed by DCLR after hearing the parties and considering the objection also vide order dt. 18.10.2013.

On being aggrieved by and dissatisfied with the aforesaid order dt. 18.10.2013, the present appellant has preferred the instant appeal.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant in his brief argument, submitted that measurement done by the survey knowing Commissioner was totally unscientific and the said report was prepared with the convinance of the respondent. He further submitted that the eastern and western boundary of plot No. 10 was under dispute and for that one survey knowing Commissioner was appointed earlier also but he failed to find out the exact fixed point but later on another survey knowing Commissioner, without searching the fixed point demarcated the land which does not tally with the R.S. Map. He lastly submitted that as the demarcation has been done without considering the facts relating to the disputed plot, the demarcation report of the survey knowing Commissioner is fit to be rejected.

The learned counsel appearing on behalf of the respondent while opposing the arguments forwarded by the learned counsel for the appellant, strongly supported the report of survey knowing Commissioner and said that the report was correct as such the same was confirmed by the DCLR. He further submitted that the appellant did not mention any reasonable cause to raise doubt on the said report of survey knowing Commissioner as the measurement has been done in his presence and that time he did not raise any objection to the said measurement. He lastly submitted that the report of survey knowing Commissioner is correct and it was for that reason, confirmed by the DCLR and hence this appeal is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records respective arguments forwarded by the learned counsel for the parties, it appears that in the instant case, the dispute between the parties relates to correctness of the measurement report submitted by the survey knowing Commissioner and its further confirmation by the DCLR. It is seen that



the learned DCLR in his detailed order has discussed each and every aspect of the case as well as heard the parties while confirming the said measurement report. On the other hand, the learned counsel for the appellant casts doubt on the said measurement report only on the basis that without finding out the fixed point, the measurement has been done. However, in view of the observations made by the Hon'ble High Court in the case of Maheshwar Mandal & ors. Vrs The state of Bihar & ors., the instant case should not have been adjudicated by the learned DCLR under the provisions of the B.L.D.R. Act-2009. In fact the BLDR Act predominantly meant for adjudication of the dispute arising out of any six acts mentioned in schedule-1 of the act only. As the instant dispute does not fall under any of the six acts mentioned in schedule-1, the present case is obviously not maintainable under the BLDR Act-2009 before this Court nor it was maintainable before the learned DCLR as per the observation made by the Hon'ble High Court in several judgments.

For the aforementioned reasons, the impugned order of the learned DCLR, Sonpur is not sustainable and hence the same is set aside and this appeal petition being also dismissed for want of maintainability.

Dictated and Corrected by me.


15/07/12
Commissioner
Saran Division, Chapra.


15/07/2012
Commissioner
Saran Division, Chapra.