

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 88/2014

Ram Darshan Sahi & Ors.

Vrs.

Jai Kishun Sah & Ors.

ORDER

16.07.2015 – The instant appeal is directed against the impugned order passed by DCLR, Maharajganj in BLDR Case No. 137/13-14 on 14.12.2013.

The brief facts of the case are that Jai Kishun Sah and Birendra Sah, both sons of Ekbali Sah R/o village- Paterha, circle – Maharajganj, Dist- Siwan filed a case before DCLR, Maharajganj with a prayer that a piece of land measuring 5 Katha, appertaining to Khata No. 389, plot No. 710 and another piece of land measuring 7 Katha appertaining to Khata No. 225, Plot No. 591, which is their ancestral land on which their possession be delivered and if any papers is filed by the O.Ps. in respect of that land the same be declared illegal. Thereafter, the DCLR issued notice to the present appellants and after hearing the case finally passed the order on 14.12.2013 allowing the petition of the present respondents and also directed the present appellants to vacate the above land and also restrained them from making any interference in future. Feeling aggrieved by the aforesaid order of DCLR, the present appellants have preferred this appeal before this court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted in details as to how the present appellants came in possession over the disputed land through the sale deed executed by the owner of the land as such the appellants are the rightful owner of the land in question. He further argued that the learned lower court has completely misunderstood the provisions of the BLDR Act and has wrongly decided the case against the respondents and the learned lower court even exceeded its jurisdiction in deciding the complicated question of title which was beyond its jurisdiction. He also argued that the court below has failed to appreciate the admitted continuous possession of the appellants over the disputed property and has got no power or jurisdiction to declare the registered document as void deeds. He further submitted that the learned lower court has misunderstood the fact that the ancestor of the appellants had taken the disputed property firstly by way of mortgage and subsequently they have purchased the same from the rightful owner who were legal heirs of the recorded tenant. The learned lower Court also and also overlooked the documentary evidence filed on behalf of the appellants, specially the sale deeds in respect of the disputed property. The learned counsel lastly prayed that the impugned order of DCLR is fit to be set aside .

The learned counsel appearing on behalf of the respondents, while vehemently opposing the arguments forwarded by the learned counsel for the appellant, submitted that the instant appeal is not maintainable as the entire claim raised by the appellant is baseless, concocted and illegal. He further argued that the disputed land is the

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ancestral property of these respondents and even the Jamabandi in respect of disputed land is also running in the name of the ancestors of these respondents. He also submitted that the claim of the appellants that one Prithivi Sah was the heir of the Khatiyani raiyat of the disputed land who executed a sale deed on 08.06.1973 to Baidnath Sahi is totally wrong as the said Prithivinath Sah was not the heir of the Khatiyani raiyat. So he has got no right to execute any sale deed and as such the said sale deed is forged, illegal and void. The learned counsel lastly prayed that the impugned order of DCLR is just and proper, hence the same be upheld.

Considering the facts and circumstances of the case, material available on records and on going through the claims and counter claims made by the learned counsels for the parties, it is seen that both parties are claiming their right and title over the disputed piece of land on the basis of one and another documents. The present appellants claim their right and possession on the basis of alleged sale deed and mortgage deed alleged to have been executed by heirs of the Khatiyani raiyat of the disputed land. On the other hand the presents respondents claim is based on the fact that the disputed land is the ancestral property and also Jamabandi in respect of that land is running in the name of the ancestors of the respondent and, they are paying rent to the Government also. It is seen from the impugned order of DCLR that he has passed a detailed order after analyzing each and every facts of the case and finally arrived at the finding that the claim of the present appellants are not valid. It is also seen that the learned counsel for the appellant laid maximum emphasis on the point of maintainability of this case on the ground that there involves determination of complex question of title between the parties. However, this claim is not tenable in view of the fact that the present respondents had approached the DCLR to get their possession over their ancestral land of which the Jamabandi is also existing in the name of their ancestors. Thus, it is quite obvious that the learned DCLR has passed appropriate order under the relevant provision of the BLDR Act.

For the aforesaid reasons, I am not inclined to make any interference in the impugned order. Accordingly, the same is upheld and this appeal petition being devoid of any merit is dismissed.

Dictated and Corrected by me.

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