

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. appeal No. 31/2013
Serajuddin Mia & Ors
Vrs.
Sudeshi Rai

ORDER

21.2.2015.

The instant appeal is directed against the impugned order of DCLR, Mharajganj, passed in BLDR case No. 19/2012-13 on 08.10.2012.

The brief facts of the case are that the present respondent filed a case before DCLR, Maharajganj bearing case No. 19/2012-13 wherein his prayer was that a piece of land measuring 5 dhur appertaining to Khata No. 89, plot No. 369 situated in village Bahadurpur of Bhagwanpur Circle, Dist-Siwan is in his peaceful possession which was settled to his ancestor by the Ex-landlord and the present respondent are trying to encroach the said land. The learned DCLR after having the parties finally decided the case in favour of the present respondent and held that the present appellants having no right or possession over the disputed land.

On being aggrieved by the aforesaid order, the present appellant preferred this appeal.

Heard the parties.

The learned counsel for the appellant submitted that the disputed land is in the possession of the appellants same time immemorial and the land is G.M. land and the same is being used as sahan and frontage of the house and the appellants have accrued their title over the disputed land by virtue of adverse possession. He further submitted that the learned DCLR, without considering the legal aspects of the case allowed the petition of the respondent as such the order of the Court below be set aside.

The learned counsel for the respondents on the other hand submitted that the disputed piece of land was settled to the Grand father of the respondent by the Ex-landlord and they were paying rent to the ex-landlord.

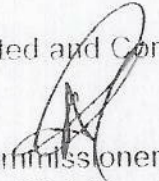
Considering the facts and circumstance of the case, material available on records and on going through the rival submissions advanced by the learned counsel for the parties, it is seen that the dispute between the parties is mainly related to right, title and interest over the disputed piece of land claimed to have been settled by Ex-landlord and on the basis of adverse possession. In view of the nature of dispute in the instant case, it can be safely assume that this appeal was not maintainable before DCLR as per the provision of the B.L.D.R. Act-2009. However, the learned DCLR, did not bother to ascertain the maintability of the case brought before him for adjudication by




completely ignoring the relevant provisions of the BLDR Act. The subject matter of adjudication under the BLDR Act does not include setting aside or changing the records of rights or deciding issues relating to the title of the parties, who are staking their claims on the lands in question. The Hon'ble High Court also in its order in CWJC No 1091/2013 on 24.06.2014 observed that the competent authority is 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 regions, the impugned order of DCLR, Maharajganj is set aside and accordingly this appeal is disposed of.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


Commissioner,
Saran Division, Chapra