

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 282/2013

Sarshwati lal Prasad & Ors.

Vrs.

Ram Nath Sharma

ORDER

~~16-07-2015~~ - The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR Case No. 25/13-14 on 13.09.2013.

The brief facts of the case are that one Ram Nath Sharma S/o Late Mohan Thakur R/o village & P.O.- Hahawa , P.S. & Circle- Maharajganj, Dist- Siwan filed a case before DCLR, Maharajganj making the present appellants as O.Ps. wherein his prayer was that the disputed land measuring 18 Katha 6 dhur of Khata No. 100 and spread over in plot No. 1045 and 1051, of which the present appellants(O.Ps. before DCLR) had purchased 3 Katha 1 dhur through sale deed from plot No. 1045 and now they are trying to forcibly grab the part of Plot No. 1051 also and are also creating hindrance in his peaceful possession. The learned DCLR after issuing notice to the present appellants (O.Ps before DCLR) and on hearing the case finally passed the order on 13.09.2013 allowing the case in favour of present respondent and also directed the present appellants to vacate the part of the land of the present respondent and also not to create any hindrance on the land of the respondent. Feeling aggrieved by the said order, 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 appellants submitted that the impugned order of learned DCLR on different aspects of the case is bad in law and against the law because of the fact that the conclusion arrived at by him is mostly based on conjectures and surmises than on reasonings. He further submitted that the learned court below has also erred in not believing the case of O.Ps. with respect to their land covered under the registered sale deed dated 07.06.1944 whereby Sitaram Kamkar had transferred 8 Katha 19 dhur of land alongwith other lands including the land covered under R.S. Plot No. 1045 and 1051 and thereby the right title and interest of the transferor devolved upon the transferee by virtue of such transfer. He further said that due to such transfer other land including the details description of lands as given in the sale deed and transferees and heirs



had or have been coming in possession over the same. He further argued that the learned DCLR, Mahrajganj has failed to discuss the legal principle involved in the case of land transferred after giving boundaries in that case the entire land will be deemed to be transferred to the transferee. He also submitted that the learned court ought not to have exercised his jurisdiction with respect to the complicated questions of title and possession involved between the parties with respect to their respective claims, the learned counsel lastly prayed that the impugned order is fit to be set aside.

The learned counsel appearing on behalf of the respondent submitted that the impugned order passed by DCLR is just, proper and correct. He further argued that from perusal of the sale deed document of appellant it is quite clear that the said document is not concerned with the disputed land of this case as such the claim of the appellants over the disputed land is totally false as the said claim is based on wrong genealogy of Bahadur Kamkar. He also argued that the learned DCLR, Maharajganj has visited the dispute spot and enquired about the same and on finding the claim of the present appellants was quite wrong, allowed the case in favour of the present respondents so the points raised by the appellant at the appellate stage is not fit to be considered now. He lastly prayed that the impugned order is fit to be upheld.

Considering the facts and circumstances of the case, material on records and the respective arguments forwarded by the learned counsel for the parties, it is seen that the claim of the appellant over the disputed land is based on the sale deed whereas the claim of the respondent is that the land purchased by the appellants from plot No. 1045 and now wants to grab the land of the respondents which is ancestral land of plot No. 1051, the appellants are claiming their right over the said land on the basis of a false genealogy. It is also seen from the impugned order that the learned DCLR, after making a spot enquiry on the disputed plot arrived at the conclusion that the claim of the present appellants are not correct. The learned counsel for the appellants miserably failed to point out any apparent illegality in the impugned order of DCLR.

Thus, for the aforesaid reasons, the impugned order is upheld and accordingly, this appeal petition being devoid of any merit is dismissed.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


Commissioner,
Saran Division, Chapra