

**In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. appeal No. 209/2011
Sadhu Saran Sah & others**

Vrs.

Puniteshwar Singh

ORDER

The instant appeal is directed against the impugned order of D.C.L.R., Maharajganj passed No. 22/2011-12.

The brief facts of the case are that the present respondent Puniteshwar Singh S/o Umeshwar Prasad Singh R/o Vill- Bhagwanpur, Dist-Siwan had filed a petition before D.C.L.R., Maharajganj on 29.06.2011 stating that the present appellant Sadhu Saran Sah and others were dispossessing him forcibly from plot No. 949, having area 7 xatha 10 dhur appertaining to khata No. 333 in which Shisam and one shemer trees are situated. The learned D.C.L.R., thereafter initiated a Land Dispute case No. 22/11-12 and accordingly noticed the parties and after hearing passed the final order on 04.11.2011 holding that the claims of the present respondent is allowed in view of the provisions of Bihar Money Lenders Act. and also directed the C.O. Bhagwanpur Hat to take action in respect of ensuring possession on the disputed plot.

On being aggrieved by and dissatisfied with the aforesaid order the present petitioner preferred this appeal.

Heard the parties.

The learned counsel appearing on behalf of the appellant at the very outset submitted that the appellant after service of notice appeared and filed rejoinder that Sheo Rai ancestor of respondent has executed registered Jarpesgi dt. 29.09.69 in favour of Jagarnath Sah, Sadhu Saran Sah and Shambhu Sah ancestor of appellants and put them possession thereon and since then they are coming in possession and within time the Jarpesgi deed was not redeemed and they became full owner of the disputed land. The learned counsel further argued that a proceeding u/s 144 Cr. P.C. was also decided in the favour of the appellants and the original revision No. 32 of 2011 preferred by the respondents was also dismissed. He further pleaded that the learned D.C.L.R., without considering the documents of possession and wrong interpretation of law allowed the prayer of the respondent and gave order of delivery of possession vide order dt. 04.11.2011. He lastly prayed that the impugned order be set aside and the present appeal be allowed in favour of the appellants.

The learned counsel appearing on behalf of the Ops submitted that the impugned order is legal and valid and the appellant has got neither title nor possession over the disputed land. He further argued that the appellants claim possession on the basis of a mortgage deed executed by the ancestor of the respondent in the year 1969. He further argued that the appellants claims that due to no-redemption they have acquired valid title. The learned counsel further submitted that as per the provision of

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Bihar Money Lenders Act. 1974 every mortgage deed after expiry of 7 years from the date of execution automatically stands redeemed and the respondents are now in possession and the appellants do not have any title over the disputed land. The learned counsel lastly prayed that this appeal is fit to be dismissed.

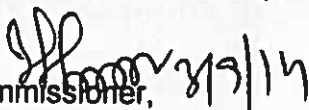
Considering the facts and circumstances of the case material available on records and claims and counter claims raised by the learned counsel for the parties, it is seen that the crux of the dispute between the parties basically relates to the execution of provisions enshrined in the Bihar Money Lenders Act- 1974. It is quite surprising as to how and why the learned DCLR, failed to consider this important aspect of the case and kept on deciding an issue which has not been covered under the BLDR Act. 2009.

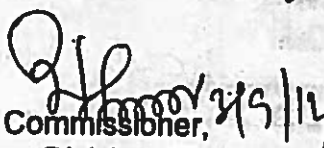
However, the Bihar Land Disputes Resolution Act- 2009 has been drawn up with a view to provide uniform and common forum for speedy resolution of dispute and for which administration of those Acts involved are mentioned in schedule - 1 of the Act. But the Bihar Money Lenders Act-1974 has got no place in schedule - 1. of BLDR Act. 2009 .

As such I do not find any reason to deal with a matter which basically does not fall under the purview of the BLDR Act.

Thus for the aforementioned reasons, this appeal is dismissed.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


Commissioner,
Saran Division, Chapra