

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHAPRA

B.L.D.R. Appeal No. 181/2011

Ram Naresh Mishra

Vrs.

Pooja Mishra

ORDER

13.4.15 The instant appeal is directed against the impugned order passed by DCLR, Hathua in BLDR Case No. 82/2011-12 on 13.10.2011.

The brief facts of the case are that the present appellant filed a case before DCLR, Hathua with a claim that although he has  $\frac{1}{3}$  share in Plot No. 153 whose total area is 7 Katha 11 dhur which was purchased by his grand father through registered sale deed on 02.04.1942 but the present respondent dispossessed him from his share. The learned DCLR after hearing the case finally passed the order on 13.10.2011 wherein he held that the claim of the petitioner is vague, misleading and baseless and accordingly dismissed the case. Feeling aggrieved by the aforesaid order the appellant has preferred this appeal.

Heard the parties.

The learned counsel for the appellant submitted in detail as to how he came to possession over the disputed land and further argued that how and on what basis his claim is justified on  $\frac{1}{3}$  part of the disputed plot whose total area is 7 Katha 11 dhur. He also submitted that in the past T.S. No. 259/1966 was also fought between the ancestors of appellant and respondents and it was finally decided on compromise. The learned counsel further argued that the entire findings and reasoning recorded by the learned DCLR Hathua in passing the impugned order is illegal and based on no evidence. He also submitted that the DCLR failed to appreciate that the heirs of Ram Singar Mishra and Dalsingar Mishra having title over the land in disputed plot to the extent of 2 Katha 18 dhurs and they are entitled to get possession over the same. He lastly prayed that the impugned order is fit to be set aside.

The learned counsel appearing on behalf of the respondent submitted that the instant appeal is legally and factually not maintainable because the appellant has no right to file the case u/s 4 of the BLDR Act as complicated question of law and fact can not be decided in summary proceeding. He further argued that the present respondent has got 5 Katha 14 dhur in R.S. plot No. 153 on the basis of compromise reached after filing of T.S. No. 200/99 in the court of sub-judge, Gopalganj and now the appellant has used forged document to claim his right by filing a false case before DCLR in order to harass the respondent.

Considering the facts and circumstances of the case, claims and counter claims raised by the contesting parties and on perusing the impugned order, it is seen that in the lower court, order it has been mentioned that the present appellant who was also petitioner in the lower court admitted that the respondents have got land after title suit and the recovery of possession sought by the appellant on the said land has been rightly rejected by the lower court.

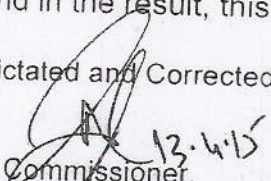


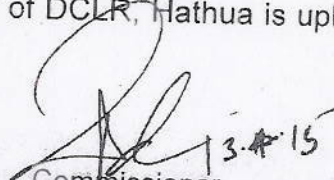
2.

Furthermore, if the appellant has any claim of title over the disputed land he may approach the competent court for adjudication of dispute because such a complex question relating to determination of title can not be decided under the provision of the BLDR Act- 2009.

For the aforesaid reasons, the impugned order of DCLR, Hathua is upheld and in the result, this appeal petition is rejected.

Dictated and Corrected by me.

  
13.4.15  
Commissioner,  
Saran Division, chapra

  
13.4.15  
Commissioner,  
Saran Division, Chapra