

**In The Court of Commissioner, Saran Division, Chapra**

**B.L.D.R. Appeal No. 28/2014**

**Janak Prasad & ors.**

**Vrs**

**Suresh Mishra**

**ORDER**

27-01-2014 - The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 20/2013-14 on 19.12.2013.

The brief facts of the case are that the present respondent Suresh Mishra, C/o Thakurjee Gopaljee Temple, village-Jungal Vilash, Tola-Satwar, P.S. & circle-Gorya kothi, Dist-Siwan filed a petition before DCLR, Maharajganj by making present appellants as o.ps upon which a BLDR case No. 20/2013-14 was initiated under the BLDR Act-2009. In the said case, the prayer of the present respondent (petitioner before DCLR) was that a total of land measuring 14 bigha 12 katha 17 dhur appertaining to khata No. 2 and spread over in plot nos. 61, 34, 72, 130, 299, 134, 181; katha No. 187, plot No. 62, 3898, 3903, 3895; khata No. 188, plot Nos. 3898, khata 78, plot No. 77 out of which 4 bigha 7 katha land was transferred to Thakurjee Gopaljee by late Vishun Dayal Giri through sale deed and jamabandi No. 218 is running in the name of temple and the remaining land which is also in the name of temple for which order be given for issuance of rent receipt and also be freed from encroachment. In the said case, his further prayer was that the present appellants (o.ps before DCLR) were claiming their right over the land on the basis of forged settlement patta as such the said land be vacated also from the possession of the o.ps and they be restrained from making any interference. Thereafter, the learned DCLR heard the case and finally vide order dt. 19.12.13 held that the claim of the o.ps (appellants in the present case) over their respective land is not proved in absence of any evidence as such they have illegally occupied the said land. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal petition before this Court.

The learned counsel for the appellants instead of advancing any oral arguments preferred to file w.s. But till date no w.s has been filed by the learned counsel. Similarly, the learned counsel for the respondent was also absent on the day of final hearing despite being given last chance on previous dates.

In view of the aforesaid position, this case is being disposed of on the basis of material facts available on records as well as the impugned order. On perusal of the impugned order it is seen that the present respondent, as petitioner, had approached the learned DCLR, Maharajganj seeking relief to the extent that the land in question be freed from encroachment of the present appellants and to pass order for issuance of rent receipt in his favour with respect to the land in question. It is also seen that the learned DCLR in his detailed order has held that the claim of the present respondent as true. However, from the memorandum of appeal petition and impugned order it is quite discernible that the dispute between the parties relates to their respective claim over the disputed land on the basis of so called sale deed documents alleged to have executed in their favour by the owner of the land. The nature of dispute itself reflects that in the instant case involves adjudication of

complex question of right, title and possession over the raiyati land. It is needless to say that the dispute essentially involves alleged encroachment also over the private land but the same is not maintainable under the BLDR Act.

It is well established that the subject matter of adjudication under the BLDR Act does not include such matters. The Hon'ble High Court in its judgment in CWJCC No. 1091/2013 (Maheshwar Mandal and Ors. Vrs. The State of Bihar & Ors.) on 24.06.2014 has observed that the revenue authorities are not empowered to entertain matter not arising out the six enactments mentioned in schedule- 1 of the BLDR Act- 2009. Obviously the instant matter does not fall under any of the said six enactments and as such it was not maintainable before the lower court.

Thus, for the aforesaid reasons and keeping in view the observations made by the division bench of the Hon'ble High Court as mentioned above, the impugned order of DCLR is set aside and the appeal petition is accordingly disposed of.

Dictated and Corrected by me.

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27.4.16  
Commissioner,  
Saran Division, Chapra

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Saran Division, Chapra