

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 271/2012

Babu Ram Rai & ors.

Vrs.

Vishun Rai & Ors.

ORDER

03.05.2016 -

The instant appeal petition is directed against the impugned order passed by DCLR, Chapra Sadar in Misc. Case No. 202/2011, initiated under the provisions of BLDR Act- 2009, on 26.02.2011.

The brief facts of the case are that a case titled Misc. Case No. 202/2011 was initiated by the learned DCLR, under the provisions of BLDR Act-2009 on the complaint petition filed by the present appellants. In the said petition, the appellants stated their case that the land appertaining to Khata No. 956, Survey Plot No. 6745, dih-basgit nature, having area 06 katha 04 dhur out of which upon 1^{1/2} dhur land he has put a Gumati and from that he earns his livelihood. His further case was that the said land has been recorded in Khatiyan " Katuchery in possession of Jarpesgidar" and the said land is sairat on which daily market sits and every year it is auctioned. His next plea was that as he wants to pay rent to the Govt. for which rent may be fixed. Thereafter, the learned DCLR after issuing notices to the present O.Ps. heard the case and finally vide order dated 26.08.2011 closed the proceeding holding in the matter that as an order has already been passed by the court of the then DCLR, in Jamabandi correcting Case No. 01/95-96 on 23.01.99, he expressed his inability to pass any order in the said matter. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal petition before this court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellants while assailing the impugned order submitted that the said order has been passed without properly appreciating the facts of the case and material available on record. He further submitted that the learned court below ought to have directed the learned C.O., Parsa to fix the rent of the land in dispute in the name of the appellants and forwarded the record to the higher authorities for approval of the same. He also argued that the learned court below ought to have disbelieved the story of settlement by the Ex-Landlord in favour of Shekh Habibul Hussain and subsequent sale of the land by his legal heirs. He lastly submitted that the impugned order is fit to be set aside. The learned counsel appearing on behalf of the respondents, on the other hand, strongly opposed the submission forwarded by the learned counsel for the appellants and submitted that the said



disputed land was settled in favour of one Shikh Habibul Hussain by the Ex-landlord and he also filed return in his name after the vesting of Zamindari and thereafter, Register- 2 was prepared in the name of Habibul Hussain. He further submitted that in course of time the legal heirs of the settlee, after division of the said land amongst themselves, sold their share to the present respondents through registered sale deeds and the said land has also been mutated in their name. He also stated that earlier a T.s. No. 129/64 was filed for the said disputed land which was decided in favour of the settlee and even the Jamabandi correction case No. 01/95-96 filed before DCLR by the ancestor of the present appellants have been dismissed. He lastly said that the impugned order is just, proper and valid as such there is no need of any interference in the said order.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, It is seen that the claim of the appellants is that as the said disputed land belongs to the state of Bihar and the same has been recorded in sairat register for which annual bid is held and they pay rent to the bidder as such rent may be fixed for the land which is in their possession. On the other hand, the claim of the O.Ps. are that the said disputed land belonged to the Ex-Landlord Babu Thakur Prasad who settled the same in favour of Shikh Habibul Hussain and also fixed rent and after vesting of Zamindari, he also filed return in favour of Habibul Hussain and on that basis Jamabandi has been created. Later on part of some land was sold by the legal heirs to other persons and since then they are coming in possession. It is also seen that previously a title suit case No. 129/1964 and Jamabandi correction case No. 01/95-96 were also contested by the parties which was decided in favour of the settlee. Thus, it appears that, in view of the nature of dispute, the learned DCLR has rightly closed the proceeding on finding that Jamabandi correction case No. 01-95-96, for the said disputed land has already been decided by the learned DCLR vide order dated 13.01.1999 as such there is no need to pass any other order in the matter. Thus, I do not find any infirmity in the said order of DCLR for the reasons that the said order has been passed after properly appreciating the material facts of the case.

With the aforesaid observations, this appeal petition is disposed of.

Dictated and Corrected by me.

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3-5-16
Commissioner,
Saran Division, Chapra

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Saran Division, Chapra