

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 139/2013

Prajapati Mishra

Vrs.

Haricharan Rai

ORDER

01-09-2015 - The instant appeal is directed against the impugned order passed by DCLR, Mahrajanj in BLDR Case No. 94/2012-13 on 12.03.2013.

The brief facts of the case are that a case was initiated by DCLR, Mahrajanj on a petition of the present appellant which was sent to him by District Public Grievance Cell, Siwan vide letter No. 2407 dated 17.07.2012. Further case of the appellant was that a piece of land having area 08 Katha 04 dhur, Plot No. 1271 and 1282 of Khata NO. 208 of which the jamabandi is running in the name of grand father of the appellant. On the said land, the present respondents have wrongly secured sale deed in the year 2008 and also got Jamabandi created in his name as such suitable action in the matter be taken. Thereafter, the learned DCLR, after issuing notice to the present respondent and on hearing the parties finally disposed of the dispute vide order dated 12.3.2013 wherein he held as the dispute involves of determination of title and which can only be decided by the competent court. Feeling aggrieved by the said order, the appellant (petitioner before DCLR) has preferred this appeal.

Heard the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted in detail as to how the appellant came in possession over the said disputed land and how the said Jamabandi has been created. He further argued that the respondents obtained a factious and forged sale deed with respect to same land after setting up a fictitious lady who had no title to executed any sale deed with respect to the said land. He further submitted that the learned lower court has not examined the entry of Register-ii whereas both parties claimed their Jamabandi respectively in shape of rent receipt. He lastly submitted that the impugned order is quite illegal, incorrect and improper hence the same be set aside.

The learned counsel for respondent on the other hand while strongly opposing the submission forwarded by the learned counsel for the appellant, submitted that the impugned order of DCLR is just and proper as he arrived at the correct finding of facts on the basis of documentary evidence. He further submitted that the appellants father has already filed a title suit No. 80/2010 in the court of Munsif 02, Siwan so this appeal may be dismissed.

Considering the facts and circumstances of the case, material available on records and claims and counter claim made by the learned counsel for the parties and on perusal of the impugned order, it is seen that the dispute between the parties relates

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to determination of title over the disputed land where both parties claim their right on the basis of Jamabandi and rent receipt. The learned DCLR has rightly held that the case brought before him involves determination of title and such dispute can only be decided by competent civil court and accordingly closed the proceeding. I do not find any illegality in the said order of DCLR. In view of the fact that the BLDR Act itself prohibits the DCLR from deciding any dispute involving determination of complex question right, title and interest. Thus, I am not inclined to make any interference in the impugned order.

For the aforementioned reasons, the impugned order is upheld and this appeal being wholly devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.

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Commissioner,
Saran Division, Chapra

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Saran Division, Chapra