

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 308/2012

**Ram Sagar Singh
Vrs.
Sheojee Singh & ors.**

ORDER

17-02-2016 -- The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in case No. 112/2011-12 on 18.10.2012.

The brief facts of the case are that the present respondent Sheojee Singh S/o Late Mathura Singh R/o Vill-Khedu Chapra, P.S. Maharajganj, Dist-Siwan, initially filed a petition in "Janta ke Darbar me Mukhayamantri" Program on 02.05.2011 which was subsequently sent to the Collector, Siwan with a direction to dispose of the same under the provision of BLDR Act-2009. Thereafter, a case vide case No. 112/2011-12 was initiated by DCLR, Maharajganj. In the said case, the present respondent's stand was that the land in question measuring altogether 15 bigha 7 katha and 2 dhur of khata No. 22 and different plot Nos, spread in Mauza Khedu Chapra was recorded in Khatiyani in the name of Bigna Kuwar W/o Bhagwan Mahto and in course of time the said land was gifted through registered gift deed to one Mathura Mahto, father of the present respondent on 04.07.1944 and accordingly the title and possession over ½ and ½ share exists in the name of Shanker Mahto and Buti Mahto and as such he prayed that the land appertaining to khata No.22, the half share of which possession may be delivered to the respondent. Then the learned DCLR after hearing the matter finally vide order dt. 18.10.2012 disposed of the case wherein he held that the present appellant (o.p. before DCLR) has no right to claim for title over the half share in the land mentioned in khata No.22. Feeling aggrieved by the said order, the present appellant has preferred this appeal before this Court.

Having heard the learned counsel for the parties, who pleaded at length about their respective claim of title and possession over the land in question and also referred by them the geneology of their ancestors in order to justify their claims. Also perused the impugned order. It is quite obvious that in the instant case involves determination of complex question of right and title between the contesting parties. It is also seen that a T.S. No. 77/1944 was contested by them before sub-judge-1 Chapra for the said land. The dispute essentially involves the question of determination of respective claim of possession on one or another basis over 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 also in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors. has observed that revenue authorities are not vested with the power under the BLDR Act to entertain

matters not arising out of the six enactments mentioned in schedule-1 of the BLDR Act-2009. Clearly enough the instant matter does not fall under any of the six enactments and as such it was not maintainable before the lower Court.

For the aforementioned reasons and keeping in view the observations made by the division bench of the Hon'ble High Court, as quoted above, the impugned order of DCLR is not sustainable and hence the same is set aside and the appeal is accordingly, disposed of.

Dictated and Corrected by me.

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