

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 314/2013

**Sudarshan Ram & ors.
Vrs.
Bipin Choubey & ors.**

ORDER

02.46-2016 - The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in BLDR case No. 29/2013-14 on 19.10.2013.

The brief facts of the case are that Bipin Choubey & ors. of Vill-Kateya, P.S.& circle-Kateya, Dist-Gopalganj filed a case before DCLR, Hathua in which the present appellants were made o.ps. In the said case the prayer of the present respondents (petitioners before DCLR) was that the disputed piece of land measuring 27 decimal, plot No. 1332, khata No. 416 of Mouza Kateya is recorded in survey khatiyon as Gair Mazurwa Malik and the said land has remained in common use of public in the past and now in some part there is public road and remaining part is being used as play ground by children and the said land has wrongly been settled in favour of the present appellants (o.ps before DCLR) by the Bhoodan Parcha issued with respect to the said land be determined again in the interest of public. Thereafter, the learned DCLR, heard the case and finally vide his order dt. 19.10.2013 directed the Bhoodan Yagna Committee and the general secretary of the Dist Bhoodan Office, Gopalganj to maintain the status quo for future use of Govt. by initiating action u/s 21 of Bihar Bhoodan Act-1954. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The leaned counsel appearing on behalf of the appellants at the very outset of his arguments, submitted in details as to how the said 27 decimal of land which is recorded as Gair Mazurwa Malik was donated by the Ex-landlord, the Hathua State to the Bhoodan Yagna Committee who in turn settled the same to the appellants and subsequently jamabandi and rent was fixed for the said land in favour of the appellant and ever since then the said land has been coming in his possession. He further submitted that in the north side of disputed R.S. plot No. 1332 is R.S. plot No. 1333 which is agricultural land and in southern boundary of disputed land is road and another R.S. plot No. 1331 in east half portion of disputed land. He also submitted that the original kastkar of R.S. plot No. 1333 has filed a T.S. No. 90/2008 in the Court of sub-judge, Gopalganj against the appellants for Rasta in disputed plot which is compromised and original kastkar Kamal Kishore Choubey & ors. got 4 dhur land in western side of disputed plot No. 1332 through compromise decree of the suit and the present respondents are the vendee of original Kastkar and after taking sale deed filed a petition before DCLR, Hathua for cancelling the Bhoodan certificate issued in favour of the appellants. The learned counsel also assailed the impugned order for the reason that the same has been passed without appreciating the facts and law of case. He also submitted that the learned lower Court ought to have held that title of the appellants have already been decided by a competent Civil Court in T.S. No. 90/2008. He further submitted that the learned DCLR has wrongly held that the appellants are not residing in village and the nature of land has been changed into public land. He lastly submitted that as



the impugned order is without jurisdiction, illegal and improper the same must be set aside and this appeal be allowed.

The learned counsel for the private respondents in his brief arguments supported the impugned order and also strongly submitted that the same is fit to be upheld.

The learned Govt. Pleader has expressed his view that the said disputed land is a Gair Mazurwa Malik land and the Ex-landlord did not settle the land to anyone resulting in the vesting of the said land in state of Bihar and so the ex-landlord could not donate the said land to Bhoodan Yagna Committee after vesting. He further stated that the said land is being used by general public as such the villagers got easementary right over the disputed land and such Gair Mazurwa land can not be settled with any one so the settlement by the Bhoodan Committee was wrong and illegal. He lastly submitted that the impugned order is just and valid order.

Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is seen that the dispute between the parties basically relates to their claim over the said land on one or another basis. The appellants claim is solely based on the ground that the said disputed land was settled to him by the Bhoodan Yagna Committee and subsequently Praman Patra has been issued and jamabandi and rent has also been fixed. On the other hand, the claim of the private respondents are that the said land is a Gair Mazurwa Malik land which can not be settled to any one by the Bhoodan Committee and the said land is also being in use of general public as road and play ground for children. The learned G.P. also is of the view that Gair Mazurwa Malik land can not be donated by the Ex-landlord after abolition of zamindari so the settlement of the said land in favour of appellant is illegal. It is also seen that the learned DCLR in his detailed order discussed each and every aspect of the case while arriving at the final findings of fact. Obviously I do not find any apparent illegality in the said order so as to make any interference.

For the aforementioned reasons, the impugned order is upheld and accordingly, this appeal petition is dismissed.

Dictated and Corrected by me.

Commissioner,
Saran Division, Chapra

2-6-16
Commissioner
Saran Division, Chapra