

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 199/2014

Birendra Dubey

Vrs.

Panamati Kuar & ors.

ORDER

28.05.2016. The instant appeal is directed against the impugned order passed by DCLR, Hathua in BLDR case No. 06/2014-15 as 17.06.2014.

The brief facts of the case are that the present appellant Birendra Dubey S/o Late Jokhan Dubey R/o Vill-Gohani, P.S. Kateya, Dist-Gopalganj filed a case before DCLR, Hathua in which the present respondents were made as o.ps. In the said case, the prayer of the appellant, as petitioner before DCLR, was that the 8 katha 18 dhur land appertaining to different plot Nos. of khata No. 100 of mouza Gahani was purchased by him though registered sale deed on 02.04.2013 from one Shanti Devi, the rightful owner and subsequently mutation was also done in his favour. His further case was that the respondents without any basis got a proceeding initiated u/s 144 Cr.P.C. and dispossessed him from cultivating the said land as such his possession be delivered. Thereafter, the learned DCLR issued notices to the parties and after hearing the case finally vide order dt. 17.06.2014 dismissed the case which led to filing of the instant appeal case 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 appreciating the facts involved in the case. He further submitted that the appellant has purchased the said land sale deed on 02.04.2013 from rightful owner and after purchasing the land he came in possession and on that basis mutation has been done in his favour. But this important fact has not been considered by the learned lower court and even judicial mind was not applied during passing the order. He lastly submitted that the impugned order is fit to be set aside and in turn this appeal petition deserves to be allowed.

The learned counsel appearing on behalf of the respondents strongly opposed the arguments forwarded by the learned counsel for the appellant and submitted that the instant appeal petition is not maintainable as the same has been preferred on baseless ground as the appellants claims to have purchased the land which was not even in possession of the vendor Shanti Devi. He further submitted that actually the dispute land was transferred by one Raja Ram Bhagat through registered sale deed on 02.01.2008 in favour of the present respondent Panmati Kuar and jamabandi No. 603 is also existing in the name of respondent. He also submitted that a proceeding u/s 144 Cr.P.C. filed by the appellant before SDO, Hathua, with respect to the above land has already been dismissed for want of evidence regarding the claim. He lastly submitted that this appeal petition, being baseless, defective and having on merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, claim and counter claim made by the learned counsel for the parties and on

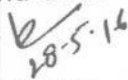
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perusal of the impugned order, it is quite obvious that both parties lay their claim over the disputed piece of land mainly on the basis of so called sale-deed document alleged to have been executed by the rightful owner of the said land. The appellant's claim is that he purchased the said land from one Shanti Devi through registered sale deed dt. 02.04.2013 who happens to be rightful owner of the said land whereas, the respondent claims to have purchased the said land through registered sale deed from one Raja Ram Bhagat. Thus, it appears that the nature of dispute between the parties itself reflects that in the instant case involves adjudication of complex question of right, title and possession over the raiyati land. The dispute essentially involves willful dispossession over private land but the same is not maintainable under the BLDR Act. It is also an admitted fact that the present respondent had approached the learned DCLR for recovery of possession over the disputed land.

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 CWJC No. 1091/2013 (Maheshwar Mandal and others Vrs. The State of Bihar and others) on 24.06.2014 has observed that the revenue authorities are not empowered to entertain matter not arising out of 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 quoted above, the impugned order of DCLR is set aside and this appeal petition is accordingly disposed of.

Dictated and Corrected by me.


28-5-14
Commissioner,
Saran Division, Chapra


28-5-14
Commissioner,
Saran Division, Chapra