

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 141/2011

Lakshmi Narain Gupta

Vrs.

Rajeshwar Sah & Ors.

ORDER

12.04.2016 - The instant appeal petition is directed against the impugned order passed by DCLR, Sonapur in BLDR Case No. 13/2010-11 on 08.04.2011.

The brief facts of the case are that the present appellant Lakshmi Narain Gupta S/o Shiv Narain Sah R/o Registry Bazar, Sonapur filed a case before DCLR, Sonapur by making Rajeshwar Sah and ors. as opposite party. In the said case, the present appellant, as petitioner before DCLR sought relief that the land measuring 3 Katha 5 dhur, appertaining to plot No. 93 Khata No. 64 be measured by a survey knowing Commissioner in presence of police force and pillars be erected and furthermore the O.P.S. be restrained from making any hindrance over the said land. Thereafter, the learned DCLR, after issuing notices to the parties, heard the case and finally vide order dated 08.04.2011 disposed of the matter by holding that the relief sought for by the petitioner could not be allowed as the case brought before him for adjudication involves complex question relating to division of property and for such relief the parties can approach the competent civil court. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this court.

Heard the learned counsel for the appellant only as the respondents were not present on the day of final hearing despite being given last chance on the previous date 25.01.2016.

The learned counsel appearing on behalf of the appellant assailed the impugned order by saying that the said order has been passed without considering the relevant facts and various documents of the case as such the impugned order becomes illegal and fit to be set aside. He further submitted that the learned DCLR without perusing the relief sought for by the appellant passed the order that in the said case involves determination of complex question relating to division of property between the parties. He further argued that although, the petitioner had sought relief, amongst other thing, was that the said disputed land of plot No. 93 be measured by a survey knowing Commissioner, but the learned DCLR after considering the wrong submissions made by the O.Ps., rejected the said prayer without applying the judicial mind as such the impugned order is fit to be set aside.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the appellant and on perusal of the impugned order, it is seen that the case of the appellant before DCLR has been rejected on the ground that in the said case involves complex question of division of property and as such he rejected the

case of the appellant and suggested the contesting parties to approach the civil court for adjudication of the dispute. Obviously such finding of learned DCLR Seems to be correct and valid in view of the relief sought for by the appellant in his petition.

For the aforementioned reasons, the impugned order of DCLR is upheld and accordingly this appeal petition is disposed of.

Dictated and Corrected by me.

12-1-16
Commissioner,
Saran Division, Chapra

12-1-16
Commissioner,
Saran Division, Chapra