

In The Court of Commissioner, Saran Division, Chapra

**B.L.D.R. Appeal No. 350/2013**

**.Mukul Kumar Singh**

**Vrs.**

**Bikarma Singh**

**ORDER**

12.04.2014 - The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 55/2013-14 on 26.10.13.

The brief facts of the case are that one Bikarma Singh S/o Late Ram Chandra Singh R/o Vill-Sihauta, P.S.-Maharajganj, Dist-Siwan had filed a case before DCLR, Maharajganj vide BLDR case No. 55/13-14 by making the present appellant as o.p. In the said case before DCLR, the present respondent as petitioner has sought relief with regard to demarcation and declaration of right of the land measuring 10 dhur 13 dhurki of survey plot No. 1866 of khata No. 418 which was purchased by him from two daughters of Bishwanath Barai and also the o.p be restrained from making any interference in his possession and further also in course of proceeding he is dispossessed from the said land as such his possession be delivered. Thereafter, the learned DCLR after issuing notice to the present appellant (o.p. before DCLR) heard the case and finally vide order dt. 26.10.13 confirmed the claim of the present respondent (petitioner before DCLR) over the disputed land.

Feeling aggrieved by the said order, the present appellant has preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties. .

The learned counsel appearing on behalf of the appellant at the very outset of his argument submitted that the present respondent as petitioner before DCLR, has filed the case seeking declaration of his right, title and possession over the disputed land on the basis of sale deed executed by Most. Phulmati Devi and Smt. Sushila Devi on 02.04.13 but the learned DCLR without considering the fact that in the said case involved Civil dispute and the matter can best be resolved in a competent Civil Court, went on to decide the case which makes the impugned order erroneous and illegal. He further argued that the learned Court below ought to have dismissed the case filed by the respondent and advised the parties to file partition suit. He further argued that the learned lower Court without considering the factual aspects of the case passed the order on surmises and conjectures but in fact he should have considered the sale deed of Kaushalya Devi and should have also ordered for scientific measurement by survey knowing Commissioner as prayed for by the respondent in his plaint. He lastly submitted that as the impugned order is illegal and arbitrary and, without jurisdiction, the same is fit to be set aside.

The learned counsel appearing on behalf of the respondent on the other hand, supported the impugned order and said that the same is just, proper and valid as the same has been passed after considering the relevant documents like sale deed executed in favour of the respondent by two daughters of khatiyar.



raiyat. He further submitted that survey plot No.1866/2151 is in the adjacent south of plot No. 1866 and the same has been amalgamated into one piece was transferred through sale deed and the same is surrounded by boundary and is also mentioned in the sale deed. He further submitted that Bishwanath Barai had delivered the possession of the said land to the father of the respondent about 50 years ago but no paper could be prepared and now the appellant got registered the said land from his daughter as such, the appeal petition is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, respective pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is quite apparent that in the instant case dispute between the parties of relates to their respective claim over the raiyati land. Obviously such kind of dispute could not have been adjudicated under the BLDR Act. The dispute essentially involves wilful dispossession 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 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 observation made by the division bench of the Hon'ble High Court as quoted above, the impugned order of DCLR is set aside and the appeal is accordingly disposed of.

Dictated and Corrected by me.

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Saran Division, Chapra

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