

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 275/2013

. Satendra Kumar
Vrs.

Principal, Sarshwati Shishu Mandir.

ORDER

31.03.2016 - The instant appeal is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 212/2012-13 on 05.08.13.

The brief facts of the case are that the present respondent filed a case before DCLR, Maharajganj by impleading the present appellant as o.p. In the said case the prayer of the present respondent (petitioner before DCLR) was that the present respondent (o.p. before DCLR) be restrained from making any interference in respect of plot No. 719 and 720, appertaining to khata No. 190 situated in Mouza Pasmauli, P.S. Maharajganj, Dist-Siwan as the o.p. has got concerned only with 2 katha 3 dhur of land of plot No. 720 of khata No. 190. Thereafter, the learned DCLR after issuing notice to the o.p. heard the case at length and finally vide order dt. 05.08.13 held that the claim of the petitioner over 2 katha 8 dhur of survey plot No. 719 and 2 katha 3 dhur of survey plot No. 720 was found proved whereas the o.ps failed to prove his claim over 2 katha 10 dhur of land of plot No. 720 and accordingly he also restrained the o.p. from making any hindrance over the said land. Feeling aggrieved by the said order, the present appellant has preferred this appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted that the said order is based on conjecture and surmises and the same has been passed without considering the relevant facts placed by the appellant and has also wrongly relied upon the forged sale-deed of the present respondent. The learned counsel further submitted in detail as to how the said disputed land was wrongly claimed by the respondent on the basis of forged sale deed and jamabandi whereas the said disputed land measuring 2 katha 10 dhur was transferred in the name of the father of the present appellant by one Singhasini Kuer on 10.08.84 and thereafter jamabandi No. 2808 was created in his favour. He further submitted that although the purchaser Gautam Prasad have five sons but only this appellant was made o.p. before DCLR and the appellant through produced the sale deed dt. 10.08.84 and rent receipt before the DCLR in support of his claim, the same were not considered at all. He further argued that the learned Court below wrongly mentioned in its order that the said rent receipts were suspicious and the jamabandi was wrong. He lastly submitted that as the impugned order is erroneous, the same is fit to be set aside.

The learned counsel appearing on behalf of the responden strongly opposed the pleas advanced by the learned counsel for the appellant

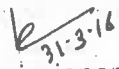



and submitted that this appeal petition itself is not legally maintainable as it lacks merit and the appellant has no locus-standi to file this appeal rather this appeal has been filed only with an intention to put pressure and harass the respondent. He further submitted that the appellant has no right, title and interest in the suit land. He further submitted that the fact of this case is that both plots 719 and 720 was auction purchased by Sanjay Sah vide T.S. No. 738/40 which was decided by Munsif-II Siwan and thereafter their legal heirs transferred 2 katha 8 dhur from plot No. 719 in favour of Education Managing Committee Patna through Mohan pd. Padmaker, Secretary S.S. Mandir Maharajganj and he came in possession and subsequently jamabandi was created and also plot No. 720, area 2 katha 3 dhur was transferred and for that jamabandi was created and in this way the 4 katha 11 dhur land came in possession of the respondent. He further submitted that the ground framed by the appellant in the instant appeal is totally wrong and against the actual facts and in fact the entire story is illegal. He lastly submitted that the learned DCLR has dealt with the matter appropriately to arrive at his final finding of fact whereas the appellant has failed to prove his case.

Considering the facts and circumstances of the case, material available on records, arguments forwarded by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the dispute between the parties relates to their respective claim over the disputed land on one or another basis. Obviously such kind of dispute can not be decided under the BLD Act-2009 as held by the Hon'ble High Court in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors.

Thus, for the aforementioned reasons, the impugned order is not sustainable and hence the same is set aside. Accordingly, this appeal is disposed of.

Dictated and Corrected by me


31-3-16
Commissioner,
Saran Division, Chapra


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Commissioner,
Saran Division, Chapra