

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. appeal No. 29/2013
Musmat Fulpati Devi & Ors
Vrs.
Ramjit Chaudhary & others
ORDER

21.2.2015.

The instant appeal is directed against the impugned order passed by DCLR, Siwan Sadar on 23.12.2012 in BLDR case No. 21/126/2012-13.

The brief facts of the case are that the present respondent No. 1 filed a case bearing BLDR case No. 21/126/2012-13 before DCLR, Siwan Sadar by making present appellants as respondents with a prayer that the disputed piece of land measuring 10 katha, 5 dhur appertaining to khata No. 217/2018, R.S. plot No. 2505, 2506 and 2507 situated in vill-Harnatad, Nonia Tola and recorded in Khatian as G.M. Land was orally settled by the Ex-intermediary in the name of his ancestor Mahadev chaudhary in 1925 and also filed return after abolition of Zamindari. Their further prayer was that, the present appellants, who were respondents in the lower Court were creating hindrance in their peaceful possession and also encroached some part of the land. The learned DCLR on hearing the parties finally decided in favour of the present respondent and also directed the concerned C.O. to get measure the disputed land and encroached land be freed.

On being aggrieved by and dissatisfied with the aforesaid order, the present appellant preferred this appeal.

Heard the parties.

The learned counsel appearing on behalf of the appellants submitted that the disputed land appertaining to plot No. 2505 and 2506 of which 1 khata each in western side was settled to one Balak Ahir, ancestor of the appellant and also some other land by Ex-landlord and also filed return and on that basis Jamabani was also prepared in their name and now they have got their residential Palani, Nad, Khuntha and hand pump over the said land. He further pleaded that the learned DCLR without considering the facts that complicated question of title and possession are involved in the case, decided the case in favour of the appellant.

The learned counsel appearing on behalf of the respondent while vehemently opposing the submission, asserted that the disputed land is recorded in the khatian as G.M. land and the Ex-land had settled orally 10 katha 5 dhur to his ancestor Mathura Chaudhary in 1925 and ever since then they have been paying rent to the Govt. And the present appellants have no title over the land.

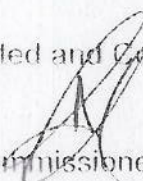
Considering the facts and circumstance of the case, material available on records and on going through the rival submissions advanced by the learned counsel for the parties, it is seen that the dispute between the parties is mainly relates to right, title and interest over the disputed piece of land purported to have been acquired through settlement by the Ex-landlord. In view of the nature of dispute in the instant case, it can be safely assume that this appeal was not maintainable before DCLR as per the provision of the B.L.D.R. Act-2009. However, the learned DCLR, did not bother to ascertain the maintainability of the case brought before him for adjudication by completely ignoring the relevant provisions of the BLDR Act. The subject matter of




adjudication under the BLDR Act does not include setting aside or changing the records of rights or deciding issues relating to the title of the parties, who are staking their claims on the lands in question. The Hon'ble High Court also in its order in CWJC No. 1091/2013 on 24.06.2014 observed that the competent authority is not empowered to entertain matter not arising out of the six enactments mentioned in schedule 1 of the BLDR Act-2009 and also held that complex question of title can never be decided in a summary proceedings.

For the aforesaid regions, the impugned order of DCLR, Maharajganj is set aside and accordingly this appeal is disposed of.

Dictated and Corrected by me.


Commissioner,
Saran Division, chapra


Commissioner,
Saran Division, Chapra