

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. appeal No. 53/2012

Ramayan Bind & others
Vrs.
Ravi Shankar pandit

ORDER

21.2.15.
The instant appeal is directed against the impugned order passed DCLR, Maharajganj on 05.01.2012 in BLDR case No. 41/2011-12

The brief facts of the case are that the present respondent filed a case under the BLDR Act, 2009 before the learned DCLR, Maharajganj vide BLDR case No. 41/2011-12 with a prayer that the disputed plot measuring 3 katha of land appertaining to khata No. 74, plot No. 157 transferred by one Suresh Chandra Ojha through registered sale deed to the mother of the petitioner on 23.06.1986. His further prayer was that the present respondents were disturbing her peaceful possession. The learned DCLR vide order dt. 05.11.2012 disposed of the matter in favour of the present respondent and accordingly also dismissed the claim of the present over the disputed piece of land.

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

Heard the parties.

The learned counsel for the appellant submitted in details in order to prove that the present appellant is a rightful owner of the disputed land and the subsequent transfer of the land to the mother of present respondent was on the basis of forged and fabricated documents. He further submitted that the impugned order of DCLR is erroneous, hence the same may be set aside.

The learned counsel appearing on behalf of the respondent submitted that the disputed land was transferred to the mother of the respondent by a rightful owner who happened to purchased the same from one Bashwan Bind, S/o Raktu Bind on 02.06.1955. He further submitted that subsequently Jamabandi was also created in respect of above disputed land in the name of the mother of the respondent. He also submitted that the impugned order of learned DCLR is fit to be upheld.

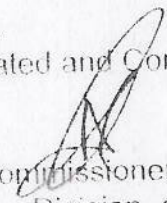
Considering the facts and circumstance of the case, material available on records and on going through the rival submission advanced by the learned counsel for the parties, it is seen that the dispute between the parties is mainly relates to right, title and interest over the disputed piece of land purported to have been acquired through sale deed. 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