

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHAPRA

B.L.D.R. Appeal No. 72/2013

Lalita Devi

Vrs.

Raj Kumar Gond & Ors.

ORDER

18-58-2015—The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in BLDR Case No. 111/2012-13 on 31.01.2013.

The brief facts of the case are that the present respondent Raj Kumar Gond R/O Village- Manpur, P.S.- Bhore, Dist- Gopalganj filed a case before DCLR, Hathua with respect to a piece of land appertaining to Khata No. 2, Plot No. 594, area 09 dhur. His further case was that the said land in question was purchased by his father through registered sale deed over which he has his possession but the present appellant tried to dispossess him from the said land with the assistance of anti -social elements as such the present appellant (o.p. before DCLR) be restrained from capturing his land. Thereafter, the learned DCLR issued notice to the O.Ps. but she did not turn up despite being granted sufficient opportunity for filing reply and documents and as a result of that the said case was disposed of by on ex-parte order on 31.01.2013. 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 submitted that the impugned order is legally not correct as the learned court below has erred in believing the version and documents of respondents which is totally false and fabricated. He further argued that the said order has been passed ex-parte without conducting any local enquiry about the disputed land. He further said that the disputed land is in the peaceful possession of the appellant and the said land is entered in the name of his ancestor in R.S. Khatian. He also argued that the respondent is a litigant person who has filed the said case before DCLR without any right, title and possession over the disputed land and also prepared a false and forged sale deed which has got no legal value and on the basis of the same the impugned order has been passed which is fit to be set aside.

The learned counsel appearing on behalf of the respondent submitted that the arguments advanced by the learned counsel for the appellant is not correct because of the fact that despite serving of notice by the DCLR, she did not appear on several dates and did not file any reply as such the DCLR was compelled to pass ex-parte order and same can not be assailed now. In fact, the said order has been passed after proper consideration of the respondent's title and possession over the said land. He also submitted that the said land has been purchased by his father from its original owner and the same is being used as Sahan of the house. The impugned order of DCLR is just and valid and hence the same be upheld.

Considering the facts and circumstances of the case, material on records and from the perusal of the impugned order it appears that the dispute between

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the parties relates to their claim over the disputed price of land on one and another ground. The claim of the appellant is based on the fact that the said land is her ancestral land whereas the respondent's claim is based on the sale deed document and his possession. Thus, it is quite obvious that both parties put their claim on the raiyati land and they are neither settlee nor allottee of the said disputed land. The dispute essentially involves issue of willful 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 & Ors. Vrs. The State of Bihar & Ors.) 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 dispute does not fall under any of the six enactments and as such it was not maintainable before the lower court.

Thus, for the aforesaid reasons and keeping in view the observations 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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*18.8.15*

Commissioner,  
Saran Division, Chapra

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Commissioner,  
Saran Division, Chapra