

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 284/13

Rajendra Choudhary & ors.

Vrs.

Rajeev Kumar Yadav & ors.

ORDER

72-47-2016

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR Case No. 41/149/2012-13 on 07.06.2013.

The brief facts of the case are that the present respondents Raghuath Choudhary & Ors. , all resident of village- Titra Tola Mishrauli, P.S.- Mairwa, Dist- Siwan filed a case before DCLR Siwan Sadar under the provisions of BLDR Act- 2009 in which the present appellants were made O.Ps. In the said case the claim of the present respondents (as petitioner before DCLR) was that the disputed land measuring 03 Katha 19 dhur of Plot No. 797, Khata No. 870 situated in Mouza Titra is in the possession of their ancestor Guljar Ahir for last 65 years. His further case was that one Ram Lal Ahir had earlier filed a title suit with respect to the said land vide T.S. No. 23/1947 in which it was stated by him that in the said disputed plot 03 Katha 19 dhur of land was in the possession of Guljar Ahir and subsequently on the basis of possession the said land was mutated in the name of his father vide Record No. 21/1995-96 and thereafter parcha was issued by SDO and jamabandi No. 219 was created as such his title and possession over the said land be declared and O.Ps. be restrained from making any interference. Thereafter, the learned DCLR after hearing the parties finally vide order dated 07.06.2013 held that the said disputed land was settled to the present respondent vide settlement case No. 21/95-96 and accordingly the parcha has been issued so the O.Ps. (present appellants) interference is illegal. Feeling aggrieved by the said order, the present appellants (O.Ps. before DCLR) have preferred the instant appeal case before this court.

However during the pendency of the appeal the original respondent died as a result the names of his legal representative were substituted in his place.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that the impugned order is erroneous , illegal and fit to be set aside as the same has been passed without considering the material facts of the case appropriately. He further submitted that the learned lower court has no jurisdiction to declare title and possession of the respondents under the BLDR Act. The learned counsel further submitted that earlier a T.S. No. 23/47 before Munsif 3rd Siwan was filed by Ram Lal Ahir in which the appellants ancestor, Khedu Ahir was the respondent and in the said case it was admitted that the entire land was coming in the possession of Khedu Ahir. He further submitted that the father of the respondent in connivance with the staff of circle office got

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the disputed land settled in his name, which is absolutely wrong and the said land was never remained in their possession as such the present appeal is fit to be dismissed.

The learned counsel appearing on behalf of the respondents while opposing the arguments forwarded by the learned counsel for the appellants submitted that the impugned order is just and valid as the same has been passed by the learned lower court after considering the entire facts of this case. He further argued that the said disputed land measuring 03 Katha 19 dhur was settled to the ancestor of the respondents and since then the same is coming in possession of him and on finding his possession over the same the said land was settled in his favour. The learned counsel further submitted that the claim of the appellants are totally unfounded and baseless as such this appeal petition deserves to be dismissed.

Considering the facts and circumstances of the case, material available on records, claims and counter claims made by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the present respondents enjoys the status of settlee of the disputed plot which has been settled in the name of his ancestor and the same is coming in his peaceful possession. The claim of the appellants is that the said settlement has been obtained in connivances with the employees of circle office and he also claim that earlier a title suit was fought for the said disputed land along with some other land in which it was admitted by the ancestor of the respondent that the said land was in possession of on Khedu Ahir. This plea of the appellants seems to be suspicious as nothing is available on record to suggest that the said disputed land was in the possession of his ancestor. On the other hand, it is seen that the learned DCLR has rightly held that the said settlement of the disputed land in favour of the ancestor of the respondent has been done as per law. Thus, I do not find any illegality in the said finding of the learned DCLR. As such the impugned order is upheld.

With the aforesaid observation, this appeal petition is disposed of.

Dictated and Corrected by me.

22-4-16
Commissioner,
Saran Division, Chapra

22-4-16
Commissioner,
Saran Division, Chapra