

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 345/2013

**Jaglal Ram
Vrs.
Jagjitan Ram.
ORDER**

25-04-2016- The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 56/2013-14 on 25.10.13.

The brief facts of the case are that the present appellant, as petitioner before DCLR, filed a petition under the BLDR Act-2009 by making the present respondent as o.p. In the said case the prayer of the petitioner was that the land in question measuring 9 dhur of plot No. 1083, khata No. 148, situated in village Bhikhabandh Circle-Daurandah, Dist-Siwan was purchased by him from one Kaushalya Devi through registered sale deed on 05.12.07 but it was wrongly entered as plot No. 1066 in place of 1083 in the sale deed which was later on rectified through correction petition on 06.12.2007. His further case was that he also got jamabandi created for the said land in his favour but the present respondent who forcibly grabbed the said land and bent upon on starting construction work, as such he be restrained from doing so and his said land may be demarcated. Thereafter, the learned DCLR, on hearing the case finally vide his detailed order dt. 25.10.2013 held that in the said case involves dispute relating to title and the same can only be decided by a Civil Court. Feeling aggrieved by the said order the present appellant has preferred the instant appeal case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant in his detailed argument described as to how the appellant came to acquire the said disputed land. He further submitted that the learned lower Court has erred in appreciating the documents and material available on records. He also argued that the learned lower Court ought to have considered that when the disputed land does not find place in the deed of gift dt. 10.08.1987, the very basis of claim of the respondent fails and so respondent could not be deprived from his right, title, interest and possession over the disputed land by virtue of the alleged deed of sale dt. 05.12.2007. He further submitted that as the vendor Kaushalya Devi has executed deed of sale with respect to 9 ½ dhur of land in favour of the appellant/petitioner and on that basis the appellant/petitioner has been put in possession and the said land has been mutated in favour of appellant then there can not be question of any complexity regarding the adjudication of title and in turn on this ground alone the case of the appellant should not have been dropped. The learned counsel, lastly submitted that the impugned order of learned lower Court is wrong illegal, improper and erroneous as such the said order is fit to be set aside and in turn this appeal be allowed.

The learned counsel appearing on behalf of the respondent while strongly opposing the argument advanced by the learned counsel for the appellant submitted that this



appeal petition is based on baseless grounds as such the same is not legally maintainable. He further argued that the said land was actually gifted by Gajadhar Ram to his elder daughter Duljari Devi who sold the same to the respondent on 05.11.07 and thereafter, the said disputed land has been coming in possession of the respondent. He also submitted that the claim of the appellant is based on the ground of alleged sale deed which has been executed by a person who did not have any right to execute any sale deed with respect to the disputed land. He lastly submitted that the impugned order is a valid order as such the same be upheld.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the contesting parties and on perusal of the impugned order, it is seen that the learned DCLR held that the case brought before him for adjudication involves determination of title over the disputed piece of land between the parties and the same can be decided only by the Civil Court he closed the proceeding. Apparently, I do not find any infirmity in the said finding of the learned DCLR in view of the nature of dispute involves in the case where both parties lay their claim to have acquired the said land from sale deed from one or another person. Moreover, it is almost settled now after the decision of the Hon'ble High Court in the case of Maheshwar Mandal & ors Vrs The State of Bihar & ors that proceedings under the BLDR Act can not be initiated in respect of dispute between the parties relates to raiyati land as such the said case has been rightly dropped/closed by the learned DCLR who is not vested with the power to adjudicate the complex issue of title.

Thus, for the aforementioned reasons, the impugned order is upheld and this appeal petition is dismissed accordingly.

Dictated and Corrected by me.

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25-4-16
Commissioner,
Saran Division, Chapra

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Saran Division, Chapra