

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 13/2013

Gyatri Devi & Ors.

Vrs.

Sabita Devi & Ors.

ORDER

15-01-2016 - The instant appeal is directed against the impugned order passed by DCLR, Marhaurah in BLDR Case No. 07/2012-13 on 07.12.2012

The brief facts of the case are that the present respondent Sabita Devi W/o Gautam Prasad R/o Village- Mothaha, P.S- Marhaurah, Dist- Saran had filed a case before DCLR, Marhaurah vide Land Dispute Case No. 07/2012-13 by making present appellants as opposite parties. In the said case the prayer of the present respondent (petitioner before DCLR) was that the disputed piece of land measuring 15 dhur 3 ½ dhurki, appertaining to Khata No. 823 R.S.- Plot No. 2363 situated in Mouza, Mothha which is her purchased land over which the opposite party was trying illegally to occupy the same as such her possession be declared over the same on the basis of Dakhil -Kharij existing in her favour with respect to the said land. Thereafter, the learned DCLR after hearing the parties allowed the case in favour of the present respondents wherein he held that on the basis of available documents the disputed land is the purchased land of the respondents. Feeling aggrieved by the said order of learned DCLR, the present appellants (respondents before DCLR) has preferred this appeal petition before this court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellants, while assailing the impugned order of DCLR submitted that the said order is bad in law as well as illegal as the same is based on surmises and conjectures. He further argued that the lower court has failed to consider the sale deed executed by one Bigu Mahto in favour of the appellant on 17.02.2012 and also on 19.11.2008 whereas the claim of the respondent is that she purchased the land from one Sunaina Devi D/o Rangeela Mahto but the fact is that Rangella Mahto had no daughter rather he had only a son named Bigu Mahto. He further submitted that the appellant's house is situated in the plot whose total area is 1 Katha 10 dhur 07 dhurki and he filed all the relevant documents in support of her claim before the court below but the learned court below did not consider the same and passed the impugned order, hence the same is fit to be set aside. He also substantiated his claim further by saying that the learned DCLR has no jurisdiction to decide the complex issue of determination of right and title of the parties under the BLDR Act as such the impugned order is fit to be set aside.

The learned counsel appearing on behalf of the respondents submitted that the respondent had purchased the disputed land through registered sale deed

from one Sunaina Devi W/o Rangilla Mahto who had one son Bigu Mahto and one daughter, Sunaina Devi, as such the claim of the appellant that the said Sunaina Devi is not the daughter of Rangilla Mahto is totally incorrect and false. He further argued that there is no question of title involved in this case. After purchasing the said land the respondent came in possession of the land and title of the land passed to him and so the impugned order is fit to 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 as well as the w.s. filed by the parties, it is quite obvious that in the instant case involves determination of complex question of title and possession of the parties over the disputed piece of land which is stated to have been acquired by them through sale deed from the legal heirs of the Khatiyani raiyat Rangilla Mahto. The claim of the appellants is that the disputed piece of land was purchased by him through two registered sale deeds from one Bigu Mahto whereas the claim of the respondents is that she purchased the said land from the daughter of Rangilla Mahto. However, the appellant claims that Rangilla Mahto had no daughter as the said Sunaina Devi is an imposter. Undoubtedly this kind of dispute can not be resolved by the revenue authority. The BLDR Act also does not empower the competent authority to adjudicate such kind of dispute in which determination of complex question of title is involved. The learned counsel for the appellant also emphasised on the provision of section 4(5) of the BLDR Act which clearly speaks that as soon as the competent authority comes to know that the case brought before him involves adjudication of complex issue of title, he would close the proceeding and direct the parties to approach the competent civil court. Surprisingly, it is seen that in the instant case the learned DCLR went on deciding the title of the parties over the disputed land completely ignoring the relevant provision of the BLDR Act. This approach of the learned DCLR, itself makes the impugned order illegal and extra-judicial which can not be upheld any way.

For the aforementioned reasons, the impugned order of DCLR, Marhaurah is not sustainable and accordingly, the same is set aside.

With the abovementioned observations, this appeal petition is disposed of.

Dictated and Corrected by me.

b
15-1-16
Commissioner,
Saran Division, Chapra

b
15-1-16
Commissioner,
Saran Division, Chapra