

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 151/2011

Dharam Nath Tiwary

Vrs.

Mohan Tiwary

ORDER

23.01.2016 - The instant appeal application is directed against the impugned order passed by DCLR, Siwan Sadar in B.L.D.R. Case No. 34/2010-11 on 02.09.2011.

The brief facts of the case are that the present appellant Dharam Nath Tiwary S/c Uma Nath Tiwary R/o Village- Nouadih, P.S.- Raghunathpur, Dist- Siwan had filed a case before DCLR, Siwan Sadar by impleading the present respondent as opposite party. In the said case, the prayer of the appellant, as petitioner, before DCLR was that the disputed piece of Land having total area of 1 Bigha, 15 katha and 5 dhur of khata No. 58, Plot No. 749 was recorded in the R.S. Khatiyani in the name of one Durga Prasad Pathak which subsequently came in his possession through gift deed. His further prayer was that when he filed an application before C.O., Darauli for the mutation of the said land only 1 Bigha 3 Katha 10 dhur of land was mutated in his favour. His further case was that the rest of the land was fraudulently got mutated in the name of the present respondent on the basis of forged sale deed, as such the jamabandi running in the name of respondent be corrected. Thereafter, the learned DCLR issued notice to the parties and after hearing the case through a detailed order rejected the said case holding that if the said land was transferred through gift deed in favour of the appellant then it is not understandable as to why the donee and his sons again want to contest the case relating to claim of title. Feeling aggrieved by the said order, the present appellant has preferred this appeal before this court.

Heard the learned counsel for the parties at length and perused the material available on record as well as the impugned order. From the impugned order it is quite explicit that in the instant case involves adjudication of complex question of right and title. The claim of the appellant is based on the so called gift deed executed by the guardian of Laxminia Devi whereas the claim of the respondent is based on the ground that the disputed piece of land was purchased by him through six sale deeds in the year 2006 from Brijdeo Pathak and subsequently Jamabanid was created in his favour. Thus it is quite apparent that the dispute essentially involves determination of correctness of the jamabandi with respect to the disputed piece of land which can not be decided under the BLDR Act. Even the appellant also rightly or wrongly approached the learned DCLR for the correction of jamabanid running in the name of respondent under the BLDR Act. Obviously, such kind of dispute can not be resolved under the BLDR Act- 2009. The learned DCLR should not have entertained the case which was not maintainable under the BLDR Act.

Thus, for the aforesaid reasons, the instant appeal petition is dismissed.

Dictated and Corrected by me.

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23.1.16

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Saran Division, Chapra

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Saran Division, Chapra