

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 321/2012

Sushila Devi

Vrs.

Mahesh Ram

ORDER

09.02.2016 -- The instant appeal petition is directed against the impugned order passed by DCLR, Marhaurah in a case captioned Dakhal-Dahani case No. 10/2011-12 under the provision of Bihar Land Dispute Resolution Act-2009 on 18.04.2012.

The brief facts of the case are that Musmat Dhankesia Devi W/o late Shiv Shankar Ram, R/o Vill-Saharwa, P.S. Issuapur, Dist-Saran had filed a case before DCLR, Marhaurah with a prayer for delivery of possession over the disputed land measuring 1 katha 18 dhur, appertaining to plot No. 380, khata No. 369 of Mauza Sahania over which the present respondents were trying to make construction forcibly. Thereafter, the learned DCLR after issuing notice to the o.p heard the case and finally vide order dt. 18.04.2012 held that the said case was related with the complex nature of title and as such he rejected the said case with a direction to the petitioner to approach the competent Civil Court for adjudication of her grievances.

Heard.

The learned counsel for the appellant submitted in details about her claim on the ground that the said disputed land was purchased by her late husband through registered sale deed on 26.08.1943 from one Parma Ram who had purchased the same from one Babulal Chamar, the descendents of khatiyani raiyat. He further submitted that the o.p, when tried to dispossess the petitioner from her said land she had approached the learned DCLR under the BLDR Act for seeking relief but the learned DCLR instead of granting relief rejected her said case. He lastly submitted that the impugned order be set aside.

The learned counsel for o.p did not file his presence through formal haziri and even did not participate in the hearing nor did he submit anything in writing.

Considering the facts and circumstances of the case, material available on records, relief sought for by the petitioner before DCLR and on perusal of the impugned order, it is quite obvious that the dispute between the parties relates to their respective claim of title over the disputed piece of land on the basis of sale deeds. The learned DCLR has rightly held that in the said case involves complex question of title as such he shown his inability to adjudicate the matter and accordingly directed the petitioner to approach the competent Civil Court for the disposal of the dispute. I do not find any illegality or infirmity in the said finding of DCLR vis-à-vis the relevant provision of the

BLDR Act-2009 in view of the fact that the said Act itself prohibits the revenue authority to deal with the complex question of title. It is also seen that even the honorable High Court, also in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors. has observed that adjudication of complex question of right title and possession can not be decided under the BLDR Act-2009.

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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Commissioner,
Saran Division, Chapra

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