

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 358/2013

**Magister Singh**  
**Vrs.**  
**Raj Kumari Devi & ors.**  
**ORDER**

16.03.2016 - The instant appeal petition is directed against the impugned order passed by DCLR, Mahraurah in case No. 34/2013-14 on 28.10.2013.

The brief facts of the case are that the present respondent Raj Kumari Devi W/o Late Nawal Kishore Singh and two others, all resident of village Paharpur, P.S.- Amnour, Dist- Saran, filed a case before DCLR Marauhrah vide case No. 34/2013-14 against the present appellant (o.p. before DCLR). In the said case the present respondent (petitioner before DCLR) had stated that plot No. 1444 area 13 dhur 10 dhurki and plot No. 1443 area 5 dhur 5 dhurki of plot No. 128 was purchased by her late husband through registered sale deed on 27.07.1970 and since then it was in his possession and after his death the said land came in her possession. Her further case was that as she resides outside, the present appellants have illegally dispossessed her from the said land and for that reason she approached the learned DCLR for declaration of title over the said land and also for removal of the illegal encroachment thereupon. Thereafter, the learned DCLR, after hearing the parties finally vide order dt. 28.10.2013 directed the o.p. to remove his possession made through encroachment over the said land within one month. Feeling aggrieved by the said order the present appellant has preferred this appeal this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that the impugned order is illegal because the same is based on conjectures and surmises. He further submitted that the appellant as o.p. before the learned DCLR in his rejoinder alleged that the said Musmat Piyari Kuwar W/o Late Ram Bilash Singh had no right, title and possession over the disputed land and in that view she had no right to execute any sale deed with respect to the disputed land on 27.07.1970 and the said sale deed is forged and fabricated and the late Nawal Kishor Singh never got any right and title over the said land. He further submitted that the residential house of the appellant exists over the entire part of disputed land for more than 40 years and he resides in that without any obstruction and as such the appellant has also acquired the right of adverse possession. He further argued that in the instant case involves adjudication of complex question of right and title over the disputed land and such complex question of title can not be resolved under the BLDR Act. He lastly prayed that the impugned order of DCLR is fit to be set aside.

The learned counsel appearing on behalf of the respondents submitted that the impugned order is legal and valid as the said disputed land was purchased by her late husband from the rightful owner. He further submitted that the appellant with bad motive and taking advantage of her long

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absence tried to grab the land for which earlier also a proceeding u/s 144 Cr. P.C. was initiated before SDM Marhaurah. He also argued that the respondents have clear-cut title over the disputed land whereas the o.p. is title less person and illegal occupant as such no complicated question of title is involved in this case. The impugned order is a legally valid order and hence the same be upheld and this appeal petition is fit to be dismissed.

Considering the facts and circumstances of the case, material available on the record and on going through the respective submission advanced orally by the learned counsel for the parties, it is seen that the dispute between the parties mainly relates to right, title and interest over the disputed piece of land. It appears that the appellant's claim over the disputed land is solely based on the ground of adverse possession whereas the claim of respondents is on the basis of alleged sale deed dt. 27.07.1970 executed in favour of her late husband but according to petitioner the said sale deed is false and fabricated document, because the alleged seller had no right and title over the disputed land.

Thus, it is quite apparent that there involves adjudication of complex question of right and title as both parties lay their claim on one or another basis over the said disputed land. It is well settled that such a complex issue can not be decided under the BLDR Act as observed by the Hon'ble High Court in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors.

For the aforesaid reasons and discussion made therein, it is quite obvious that the impugned order is not sustainable. Hence the same is set aside and this appeal petition is accordingly disposed of.

Dictated and Corrected by me.

*b/16.3.16*  
Commissioner,  
Saran Division, Chapra

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Commissioner,  
Saran Division, Chapra