

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 04/2013

Bijay Singh & ors.

Vrs.

Wakil Singh

ORDER

19.03.2016 - The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in case No. 11/2012-13 on 29.11.2012.

The brief facts of the case are that the present respondent Wakil Singh S/o Late Ramdeo Singh R/o Vill-Bishunpura, P.S. & circle-Basantpur, Dist-Siwan had filed a case before DCLR, Maharajganj in which the present appellant was the o.p. In the said case, the petitioner had stated that the plot No. 398, khata No. 51, area 7 katha 5 dhur situated in Mouza Bishunpura which has been mentioned in the joint name of ancestor in the said khata and he as a descendent of the khatiayni raiyat Mahabal Rai his share was 2 katha 8 dhur in the said plot. His further case was that his father purchased some part of the lands of that plot from other descendents through registered sale deed from different person in past and thereafter, he made a block of 4 katha and the same was in his peaceful possession. But now the other boundary men of the said land were making hindrance and even omitted the boundary as such, his said land may be demarcated. Thereafter, the learned DCLR after hearing the case finally ordered to the concerned C.O. and O.C. to restrain the present appellant (o.p before DCLR) from making any hindrance over the measured land of the present respondent (petitioner before DCLR) vide order dt. 29.11.2012. Feeling aggrieved by the said order, the present appellant has preferred this appeal.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant, at the very outset of his argument submitted that the impugned order is improper and invalid as the various documents filed by the appellant were not considered by the learned DCLR. He further argued that in the instant case involves adjudication of complex question of right and title and interest and such question could not have been decided by the learned lower Court. He also submitted that instead of rejecting the report of Amin the learned DCLR accepted the said report which is not correct but in fact he should have ordered for the appointment of a survey knowing Commissioner and should not have relied upon the report of Amin. The learned counsel lastly submitted that as the impugned order has been passed without considering the objections raised by the appellant, the said order is not fit to be upheld as such the impugned order be set aside and in turn this appeal petition be allowed.

The learned counsel appearing on behalf of the respondent vehemently opposed the arguments raised by the learned counsel for the appellant and submitted that the learned lower Court has rightly passed the

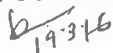


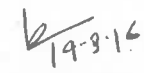
order after considering all the relevant papers and after perusing the report of Anchal Amin. He further argued that the present appellant as o.p. before DCLR never challenged the legality of proceeding, nor title and possession of respondent over the land in question rather he only challenged the measurement of Anchal Amin on baseless and irrelevant ground and after considering his said objections the same were rightly rejected. He further submitted that it is wrong to say that in instant case involves complicated question of right, title and possession of the respondent over the land in question. He further submitted that the Amin visited the spot and scientific measurement was done by him in presence of all the parties and some other persons and it was then the said land was demarcated by fixing four pillars on four corners. He lastly submitted that as the impugned order is a valid order the same does not need any interference from this Court.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case the dispute between the parties relates to the correctness of the measurement report of Anchal Amin with respect to the 4 katha land of plot No. 398 katha No. 51 of Mouza Bishunpura. Although, the appellant casts doubt over the said measurement on certain grounds and also raised objections before the learned DCLR, but the learned DCLR has rejected the said objections as unacceptable and confirmed the report of Amin. The learned counsel for the appellant has miserably failed to point out any specific illegality in the said report of Amin. However, he states that in the instant case involves complex question of right, title and possession but this plea seems to be highly unfounded in view of the fact that the present respondent as petitioner before DCLR has not sought any relief in that regard. Thus, I do not find any justification in the said claim of the appellant. Apart from that I also do not find any good ground to interfere with impugned order.

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

Dictated and Corrected by me.


19-3-16
Commissioner,
Saran Division, Chapra


19-3-16
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