

**In The Court of Commissioner, Saran Division, Chapra**

**B.L.D.R. Appeal No. 147/2012**

**Mohd. Unus**

**Vrs.**

**Mohd. Kuraish**

**ORDER**

26.02.2016 - The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in Land Dispute case No. 111/2011-12 on 20.03.2012.

The brief facts of the case are that a Land Dispute case No. 111/2011-12 was initiated by the DCLR Hathua pursuant to a letter No. 909 dt. 01.12.2011 sent by C.O. Uchkagaon. In the said case the prayer of the present respondent Mohd. Kuraish S/o Late Wazir Mian R/o vill Bargachia, P.S. Uchakagaon, Dist-Gopalganj was that the land measuring 10 katha 15 dhur of khata No. 243, plot No. 2781 and other plot No. 2832, having area 7 katha was recorded in khatiyani in the name of Sheikh Ulfat. His further case was that from the said land he got sale deed executed in his favour from the descendates of khatiyani raiyat but the present appellant (respondent before DCLR) had forcibly grown wheat and mustard crops in the said land as such his title be declared as well as his possession be delivered over the said land. Thereafter, the learned DCLR, after hearing the case finally vide order dt. 20.03.2012 ordered for vacating the said land with further observation that the said order would remain operative till the partition suit No. 186/2005, pending before the Sub-judge Gopalganj is not decided. Feeling aggrieved by the said order, the present appellant has preferred this appeal petition before this Court.

Having heard the learned counsel for the parties, perused the record and the impugned order. It is seen that the dispute between the parties basically relates to their respective possession on one or another basis over the disputed land. Although both parties have tried to justify their claim over the said land. However, it is seen that a partition suit No. 186/2005, is still pending for disposal with respect to the present disputed land between the parties, before sub-judge, Gopalganj and this fact has been admitted by the parties also. Thus, it appears that in the present case involves determination of complex question of right and title and the present respondent had also raised this issue before the DCLR. Obviously such kind of complex matter where adjudication of right and title is involved over a raiyati land can not be decided under the BLDR

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Act. But from the perusal of the impugned order it is seen that the learned DCLR has not decided the title of the parties rather he directed the present appellant to vacate the disputed land and deliver the possession to the present respondent and it has been further ordered that the said order would remain operative so long the partition suit No. 186/2005 is not disposed of by the Court of Sub-judge, Gopalganj. Apparently I do not find any illegality in the said order of DCLR as such the same is upheld and this appeal is dismissed.

Dictated and Corrected by me.

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*26.2.16*  
Commissioner,  
Saran Division, Chapra

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Commissioner,  
Saran Division, Chapra