

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

**B.L.D.R. Appeal No. 154/2013**

**Rajeev Kumar Singh**

**Vrs**

**Kameshwar Prasad & ors.**

**ORDER**

22-04-2013 The instant appeal is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 209/2012-13 on 16.05.2013.

The brief facts of the case are that the present appellant Rajeev Kumar Singh S/o Satya Narayan Singh R/o vill-Dhanawa, Circle-Basantpur, Dist-Siwan filed a case before DCLR, Maharajganj in which the present respondents were made o.ps. In the said case, the claim of the present appellant (petitioner before DCLR) was that the land in question appertaining to khata No. 159 survey No. 282, area-5 khata 3 dhur is recorded in khatiyani as Gair Mazurwa Aam land in the name of Ram Briksha Singh and ors and the said land, including some other land, altogether 8 katha 17 dhur was settled to the grand father, late Indradeo Rai on certain rent and Nazrana and accordingly the said land has been coming in his possession. His further case was that after the vesting of Zamindari, Jamabandi No. 39 was created in the name of his grand father but now for quite some time the o.ps have illegally occupied the said land by filing soil and recently they have also put a palani over the 5 dhur land towards south from the land in question as such the illegal possession be removed. Thereafter, the learned DCLR after issuing notices to the o.ps, heard the case and also visited the spot and on finding that the said land has been recorded in khatiyani as Gair Mazurwa Aam Rasta he finally rejected the claim of the parties vide order dt. 16.05.2013. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal petition before this Court.

Head the learned counsel for the appellant only as the learned counsel for the respondents was absent despite being given last chance on the previous date.

The learned counsel appearing on behalf of the appellant submitted in detail as to how the said land was settled by the khatiyani raiyat in favour of Indradeo Rai after payment of Nazarana to the Ex-landlord and subsequently his name was mutated in revenue record after the vesting of Zamindari. He further submitted that the Hon'ble High Court had observed that if any Gair Mazurwah land has been settled and the settlee has been coming in peaceful possession for much more than 12 years then the settlee acquires the status of the raiyat. He also argued that after vesting of Zamindari, the Ex-landlord submitted return of disputed land in the name of Indradeo Rai and on the basis of return, the jamabandi was created and ever since then they are paying rent to the state. He also assailed the impugned order by saying that the learned DCLR made out a third case which was neither the case of the appellant nor the case of the respondent and ultimately observed that the said disputed land belongs to the state and ordered for removal of encroachment and hence the impugned order is not justified and fit to be set aside.

Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the appellant and on perusal of the impugned order it is seen that the nature of land under dispute has been mentioned as Gair Mazurwah Aam Rasta in the khatiyani. However, the appellant's claim is that the said land was settled to his grand father by the Ex-landlord much before the vesting of Zamindari and he is in continuous possession over the said land. I do not find any force in the plea of the appellant in view of the fact that after vesting of Zamindari, Gair Mazurwah Aam Rasta land can not be settled with anybody whether the same has been remained in his possession for long time. Thus, I find that the learned DCLR has passed a correct and reasoned order

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having no infirmity. On the other hand the learned counsel for the appellant failed to prove his case absolutely.

For the aforesaid reasons, the impugned order is upheld and accordingly this appeal petition being devoid of any merit, is dismissed.

Dictated and Corrected by me.

Commissioner,  
Saran Division, Chapra

Commissioner,  
Saran Division, Chapra