

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 243/2012
Bibi Sayada Khatoon
Vrs.
Mohd. Unus
ORDER

26.02.2016 - The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in BLDR Case No. 26/2012 on 14.08.2012.

The brief facts of the case are that one Bibi Sayada Khatoon W/o Md. Kuraish R/o Village-Uchakagon, Tola- Baragachia, Dist- Gopalganj filed a case before DCLR, Hathua and prayed that the present respondent (O.P. before DCLR) has illegally captured 5 Katha 7 ½ dhur land of Khata No.243, Plot No. 2781 which was gifted to her by her husband Md. Kuraish through oral hibba as per the terms of compromise in a case before Lok Adalat. Her further prayer was that her husband Md. Kuraish had earlier filed a petition before C.O. Uchakagon which led to initiation of a case by DCLR, Hathua vide case No. 111/2011-12 which has been disposed of with a direction to the present respondent to vacate the said land. Thereafter, the learned DCLR after issuing notice to the parties, heard the case and finally vide order dated 14.08.2012 rejected the said case on the ground that in the said case involved determination of complex question of right and title of the parties and such complex issue can not be decided under the BLDR Act and further held that a civil suit between the parties is pending for disposal in competent civil court. Feeling aggrieved by the said order, the present appellant. (petitioner before DCLR) has preferred this appeal case before this court.

Having heard the learned counsel for the parties, perused the material available on record and impugned order. It is seen that the dispute between the parties relates to their respective claim over the disputed land on one or another basis. The learned DCLR has rightly held that such a complex issue of determination of right and title are outside the purview of BDLR Act and the court of DCLR has no jurisdiction to deal with such issue. The dispute essentially involves the question of wilful dispossession over private land but the same is not maintainable under the BLDR Act.

It is well established that the subject matter of adjudication under the BLDR Act does not include such matters. The Hon'ble High Court also in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors. has observed that revenue authorities are not vested with the power under the BLDR Act to entertain matters not arising out of the six enactments mentioned in schedule-1 of the BLDR Act-2009. Clearly enough the instant matter does not fall under any of the six enactments and as such it was not maintainable before the lower Court. I do not find any infirmity in the said order of DCLR. Accordingly, the same is upheld and this appeal petition is dismissed.

Dictated and Corrected by me.

26.2.16
Commissioner,
Saran Division, Chapra

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