

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 51/2014

**Paras Nath Singh**

**Vrs.**

**Master Mahto**

**ORDER**

30.03.2016 - The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 68/2013-14 on 19.12.2013.

The brief facts of the case are that the present respondent Master mahto S/o Late Madhu Mahto R/o Vill-Sultanpur Khurd, P.S.-Jamo Bazar, Dist-Siwan filed a petition under the BLDR Act-2009 before DCLR, Maharajganj by making the present appellant, Paras Nath Singh S/o Late Ambika Singh resident of the same village as o.p. In the said case, the prayer of the present respondent (petitioner before DCLR) was that the land measuring 8 dhur of khata No. 40, plot No. 714, situated adjoining to his house was purchased by him through registered sale deed from Suraj Mahto on 30.10.1985. His further case was that the present appellant (o.p. before DCLR) also purchased 12 dhur of land from the said plot from the son of Suraj Mahto through sale deed and subsequently put a palani on the land belonging to him as such the said palani be removed and o.ps be restrained from making any interference in the said land. Thereafter, the learned DCLR heard the case and finally vide order dt. 19.12.2013 decided the right of the parties over the respective land and also restrained the o.p. from making any interference. Feeling aggrieved by the said order, the present appellant has preferred this appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant assailed the impugned order by saying that the said order has been passed without considering the documentary evidence available on record as such the said order is fit to be set aside. He further submitted in detail as to how, when and from whom the said land was purchased by the appellant and also submitted in details about the right acquired by the vendor from the khatiyani raiyat Patas Nonia. He further argued that the land in dispute is only 8 dhur but the learned lower Court has given its findings on 1 katha 4 dhur which is against law and scope of case. He lastly submitted that as the impugned order is arbitrary and improper the same is fit to be set aside and this appeal petition be allowed.

The learned counsel appearing on behalf of the respondent, while opposing the submissions forwarded by the learned counsel for the appellant, submitted that the impugned order is in accordance with law and the



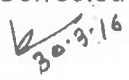
same has been passed by the proper consideration of documents available on records. He further submitted that Suraj Sah and Ram Chandra Mahto, son of Tahal Mahto sold 12 dhur land to Ramayan Sah and Rampujan Sah. Suraj Sah also sold 12 dhur of land to Paras Nath Singh on 08.06.2013 and the learned lower Court after considering the whole facts have clearly given its findings on the land and asked the parties to have their possession over the land according to their sale deeds.

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 quite obvious that the dispute between the parties relates to possession over the 8 dhur of land of plot No. 714 on which both parties claim to have purchased different areas of land through sale deeds from the said plot. The claim of the appellant is that he has purchased the land from rightful owner and at the same time the respondent also admits this fact but the location of the land seems to be root cause of dispute between the parties. Thus it appears that the dispute between the parties relates to their actual location of the land in the said plot. In other words the dispute relates to respective claim of the parties over raiyati land and also possession thereof. The dispute also essentially involves the question of willful 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 matter. 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 the those six enactments mentioned in schedule-1 of the BLDR Act-2009.

For the aforementioned reasons and keeping in view the observations made by the division bench of the Hon'ble High Court, as quoted above, the impugned order of DCLR is not sustainable and hence the same is set aside and the instant appeal petition is accordingly disposed of.

Dictated and Corrected by me.

  
Commissioner,  
Saran Division, Chapra

  
Commissioner,  
Saran Division, Chapra