

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal No. 46/2013**  
**Ganesh Prasad Agrawal**  
**Vrs.**  
**Vijay Kumar Jaiswal**

03.05.2014.

**ORDER**

The instant appeal is directed against the impugned order passed by DCLR Siwan, Sadar on 14.01.2013 in BLDR Case No. 46/154/2012-13

The brief facts of the case are that the present respondent Vijay Kumar Jaiswal s/o Late Kanhaiya Prasad Jaiswal R/o Nai Basti Malviya Nagar, P.S.- Siwan Mufasil, Dist- Siwan filed a case bearing BLDR Case No. 46/154/2012-13, making therein the present appellant as opposite party, before learned DCLR, Siwan Sadar. The following prayers were made and accordingly relief was also sought for that 1. his dispossession from his land at the hand of the present appellant be declared illegal and the present respondent's possession be ensured. 2. An order should also be passed that the present appellant neither create any disturbance in the possession of the respondent nor raise any claim on that. 3. If any difficulty arises in ensuring the possession then assistance of Magistrate and police force be taken at the cost of the present respondent. The genesis of the case is that the present respondent had purchased a piece of land measuring 19 Dhur 16 dhurki of Khata No. 30, Plot No. 475/570 and 475 situated in Fatulahi from the power of Attorney holder, Rajeev Kumar Sinha, Younger brother of Arun Kumar Sinha, the legal owner of the land, through two sale deeds executed on 25.11.2002 and thereafter the said land was mutated in the name of present respondent and accordingly Jamabandi No. 1139 was created in his favour and subsequently he also got constructed two rooms over the said land at his cost for business purpose. Thereafter, the present respondent with the help of local goons and anti-social elements got forcible and illegal occupation over that premises on the basis of forged documents. Feeling aggrieved by this action of the present appellant, the present respondent instituted a case before DCLR, Siwan Sadar which was disposed of vide order dated 14.01.2013 wherein the case of present respondent was allowed in his favour and a direction was also given to the concerned Circle Officer for measuring the land of disputed plot as per the existing sale deeds executed in favour of contesting parties and if any encroachment is found the same may be removed.

On being aggrieved by and dissatisfied with the aforesaid order the present appellant has preferred this appeal.

Heard the parties.

The learned senior counsel appearing on behalf of the appellant submitted that the impugned order of DCLR is against law and facts of the case inasmuch as in this case complicated question of law and fact is involved so the lower court had no jurisdiction to try the same and so the present respondent should have been directed to get his dispute decided by civil court. He further argued that if there was any encroachment over the disputed land of the respondent, the matter should have been decided by the DCLR himself instead of leaving it to be decided by the C.O and the lower court has no jurisdiction to delegate his power to any body. The learned counsel further argued that the learned court below wrongly decided the case in favour of the present respondent on the basis of sale deeds and whose genuineness is challenged by the present appellant as the said documents were forged and fabricated. The learned counsel further submitted that the present



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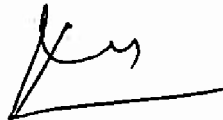
respondent has no title in the suit rather the present appellant had purchased 2 Katha from Ram Narain by a sale deed dated 23.03.1971 and again 1Katha 7 dhur from Bibuli Sharan upadhyay by sale deed dated 10.10.1988 and both these lands are in one block on the spot and had also got constructed 6 rooms over that. The present respondent's sale deed is fraudulent and he also got his name mutated fraudulently. He further pointed out that the court below has no jurisdiction to try such case in which complicated question of title is involved. The learned counsel while arguing further stated that following issues are involved in this case which needs to be decided.

1. Whose sale deed is genuine and whose sale deed is forged.
2. Whether the story of dispossession, as alleged by the petitioner respondent is correct?
3. Whether the DCLR has got jurisdiction to grant relief sought by the petitioner respondent?

He further asserted that the learned DCLR, acting under BLDR Act has no jurisdiction to decide both the above mentioned issues because for that oral and documentary evidences are needed and such relief can only be granted by a civil court. In support of his contention he also referred to a reported decision of the Hon'ble High Court, PLJR- 2012 (vol.3) page 214. He lastly said that the order passed by DCLR is illegal and without jurisdiction as such the same be set aside.

The learned counsel appearing on behalf of the respondent submitted that the respondent has purchased the disputed land from Rajeev Kumar Sinha through two sale deeds on 25.11.2002 and the transferor is the Younger brother of Arun Kumar Sinha the rightful owner of the disputed plot and he was also in possession of the valid power of Attorney right. Thereafter, the respondent came in peaceful possession over the said land and subsequently he also got constructed two big halls over the said land for business purpose, but the present appellant dispossessed this respondent from his purchased land with the help of local criminals. Thereafter, this respondent filed a BLDR case before DCLR, Siwan, who heard the matter in presence of appellant and subsequently passed the final order on 14.01.2013 in favour of this respondent which is just, legal and proper. The learned counsel further argued that the court below has perused the documents filed by the parties and on finding that both parties had purchased the land in disputed plot and hence rightly directed the C.O. to measure the entire plot and as per description in the sale deeds and boundaries mentioned therein, both parties land be identified and if any encroachment is found the same be removed and the existing dispute between the parties be resolved. He further said that this order of DCLR is just, legal and proper because the very aim of BLDR Act clearly says that small disputes should be resolved by passing an appropriate order and taking that view in to consideration the impugned order has been passed by the lower court which is absolutely an appropriate order and does not require any interference because of the fact that the case of the appellant is totally false, concocted and baseless. The learned counsel lastly prayed that the impugned order be upheld.

Considering the facts and circumstances of the case, material on records and on going through the claims and counter claims made by the learned counsel for the contesting parties, it is seen that the only issue is to be decided in this case now as to whether the impugned order passed by DCLR is an extra-jurisdictional order or he is competent to pass such order under the relevant provision of the Bihar Land Dispute Resolution Act- 2009. Although, the learned counsel for the appellant claims that the learned DCLR is not competent to decide the complex question of title, which is the main issue in this case, but this contention of the appellant is not acceptable in view of the fact that the respondent does not talk of any title issue rather he went before the competent authority only with a prayer that he had been dispossessed from his land by the appellant through unauthorized and



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unlawful means. The learned DCLR while disposing of the case rightly arrived at the conclusion that, though the present respondent purchased the land from a rightful owner through sale deeds and also got constructed some structure over that and now he has been evicted from his premises unlawfully by the appellant, his possession must be ensured in order to protect the interest of the respondent. Thus, it appears that there is no question of any title dispute rather the issue involved in this case relates to possession/eviction from the purchased land. So, the DCLR is correct in passing the impugned order as per the provisions of section- 15 of the BLDR Act-2009. The learned counsel for the appellant tried his best to convince the lower court as well as this court that in the instant case, complex question of title is involved so the impugned order of the DCLR is extra jurisdictional. But on careful consideration of the material facts of the case there is hardly any evidence to believe that the dispute between the parties relates to declaration of title in this case. Even the ruling cited by the appellant is in no way helping him to prove his case beyond all reasonable doubts that any title issue is involved in this case. Infact, it is for the competent authority to decide as to whether, the dispute came up before him for adjudication, involves any complex question of title or some other nature of disputes for which he has been empowered to adjudicate under the relevant provisions of the BLDR Act- 2009. In the instant case, the learned DCLR while acting as competent authority found that the dispute pertains to possession over raiyati land and where both parties claim their land on the basis of sale deeds executed in their favour. The learned DCLR on finding that the present respondent has a genuine claim over the said land, accordingly passed the impugned order with a view to resolve the dispute between the parties rather than to leave the parties engaged in prolonged litigation before another forum. This is certainly an appropriate step taken by the DCLR. The essence of the BLDR Act- 2009 is to provide for effective and speedy mechanism to resolve such disputes which give rise to major turbulence if not addressed immediately and effectively. The another plea of the appellant's counsel is that competent authority can not delegate his power to any other sub ordinate authorities as per the provision of the BLDR Act- 2009. This plea is also not acceptable in view of the fact that relevant section of the said Act clearly explains about the mechanism relating to execution of the order passed by the competent authority and subsection- 2 of section-15 deals with manner of execution of order in case of unauthorised and unlawful dispossession of any owner of raiyati land. Thus, I find that the impugned order of DCLR, Siwan Sadar is just, proper and in accordance with the provisions of the BLDR-Act.

For the aforementioned reasons, I do not find any infirmity in the impugned order of DCLR, Siwan as such, the same is upheld. Accordingly, the stay order granted earlier by this court vide order dated 20.06.2013 stands vacated.

In the result, this appeal is dismissed.

Dictated & Corrected by me.

Commissioner,  
Saran Division, Chapra

29/5/2014

Commissioner,  
Saran Division, Chapra

3/5/2014