

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

**B.L.D.R. Appeal No. 142/2012**

**Bhola Yadav**

**Vrs**

**Rajesh Chaudhary**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in Bhoodan Dispossession case No. 13/2011-12 on 18.04.2012 filed under the provision of BLDR Act.

The brief facts of the case are that the present respondent Rajesh Chaudhary S/o Jagarnath Chaudhary (deceased) R/o Vill-Mahuawan, P.S.-Vijaypur, Dist-Gopalganj filed a case before DCLR, Hathua in which present appellant was made as o.p. In the said case the prayer made by the present respondent as petitioner that the land measuring 6 decimal of plot No. 965 khata No. 146 of Mauza Mahuwaba, Bhoodan land, which was settled with his late father by the Bhoodan Yagana Committee and parcha was also issued in his favour. His further case was that the o.p. (present appellant) had forcibly dispossessed him from 3 decimal of the said land as such they be evicted and his possession be delivered. Thereafter, the learned DCLR heard the case and finally vide order dt. 18.04.2012 allowed the said case in favour of the present respondent with a further direction to the o.p to remove their possession over the said disputed land and also to hand over the possession to the petitioner. Feeling aggrieved by the said order, the present appellant (o.p before DCLR) has preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant at the very outset of his argument submitted that the impugned order of DCLR is erroneous, illegal and against the facts of the case. He further submitted that in detail as to how the appellant got the Bhoodan certificate and subsequently form-10 was issued in his favour on 01.01.2002. He further submitted that the learned DCLR has misconstrued and misinterpreted the Bhoodan certificate granted to Bhola Yadav. He also argued that the learned lower Court has erred in observing that how form No. 10 was issued on 01.01.2002 when the rent fixation case No. 47/87-88 was filed before block authorities long ago and thereby the learned DCLR has expressed his doubt about the validity of form No.10 which is wrong. He lastly said that the learned lower Court has also erred in not considering the legally and validity of Bhoodan certificate when both parties based their claim on Bhoodan praman Patra.

The learned counsel appearing on behalf of the respondent, on the other hand vehemently opposed the arguments forwarded by the learned counsel for the appellant and submitted that the land in question appertaining to khata No. 146, plot No. 965, area 6 decimal land is the Bhoodani land settled to the father of the respondent and Bhoodan praman Patra was issued and Form 10 also. He further submitted that the present appellant Bhola Yadav and Ramayan Yadav has got no concern with the said land but as his father of the appellant was dispossessed from 3 decimal of the said land he approached the learned DCLR for recovery of possession. He also submitted that the learned DCLR after careful consideration of the relevant facts and documents as well date of issuance of the Bhoodan Praman Patra finally passed the order in favour of the respondent. He also argued that the learned DCLR has rightly held that



when form 10 was issued on 01.01.2002 then how mutation was done in 1987-1988. He lastly submitted that as the appeal petition lacks merit the same is fit to be dismissed.

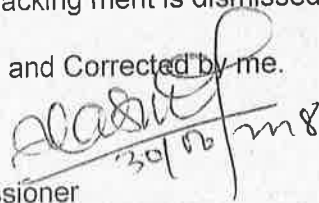
Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that both parties lay their claim over the land in question on the basis of alleged Bhoodan praman patra issued to their family members. The claim of the appellant is that the said land measuring 3 decimal was settled to him by the Bhoodan Yagana Committee whereas the claim of the respondent is that out of 6 decimal land settled to Jagarnath Choudhary, father of the respondent and of which 3 decimal land has been forcibly captured by the appellant by evicting his father. It is seen that the learned DCLR while deciding the case after considering all relevant facts arrived at the final findings. The observations made by the learned DCLR reads this:-

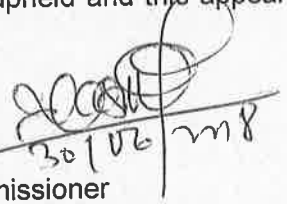
" उभय पक्षों के विद्वान अधिवक्ताओं के बहस को सुनने एवं अभिलेख में उपलब्ध कागजातों का अवलोकन करने से स्पष्ट होता है कि प्रश्नगत जमीन भूदान की जमीन थी तथा भूदान यज्ञ कमिटी के द्वारा प्रश्नगत साता नं.-146, खेसरा नं0-965 के 6 डी0 रकबा का प्रमाण पत्र आवेदक के पिता जगन्नाथ चौधरी के नाम से निर्गत किया गया है। प्रमाण पत्र के अनुसार इस सात डी0 जमीन का चौहदी में उत्तर भूदान छवर, द0-नीज, पु0-भरदूली चौधरी तथा प0-पहवारी चौधरी दिया गया है। विपक्षीगण की ओर से दाखिल किये गये भूदान प्रमाण पत्र की छायाप्रति से स्पष्ट होता है कि प्रश्नगत खेसरा नं0-965 के 7 डी0 रकबा का भूदान प्रमाण पत्र एक अन्य खेसरा के भी 7 डी0 रकबा के साथ विपक्षी सं0-02 रामायण यादव के नाम से निर्गत है किन्तु उसमें प्रश्नगत खेसरा नं0-965 के 7डी0 जमीन की चौहदी को स्पष्ट रूप से उपलेखन किया गया है। विपक्षी सं0-02 के नाम से भूदान प्रमाण पत्र तथा फार्म 10 निर्गत है जबकि लगान रसीद पर विपक्षी सं0-02 के साथ विपक्षी सं0-01 भोला यादव का भी नाम दर्ज है तथा लगान रसीद पर दर्ज किये गये केस नं0-47/87-88 के द्वारा लगान निर्धारण किया गया अंकित है। आश्चर्य की बात यह है कि विपक्षी सं0-01 रामायण यादव के नाम से फार्म 10 दिनांक 01.01.2002 को निर्गत किया गया है जबकि लगान निर्धारण केस सं0-47/87-88 के द्वारा यानी फार्म 10 निर्गत होने के करीब चौदह वर्षों पूर्व ही कर दिया गया है। इससे साबित होता है कि विपक्षीगण के तरफ से दाखिल किये गये कागजात संदेहास्पद है जिनपर विश्वास नहीं किया जा सकता है। निश्चित रूप से विपक्षी गण फरजी कागजात के आधार प्रश्नगत जमीन पर दावा करते हैं जो न्यायोचित नहीं है। प्रश्नगत जमीन पर आवेदक को भूदान प्रमाण पत्र के आधार पर अधिकार प्राप्त है। उपरोक्त तथ्यों एवं परिस्थितियों के आधार पर आवेदक के वाद पत्र को स्वीकृत किया जाता है कि विपक्षीगण को आदेश दिया जाता है कि वे इस आदेश को पारित होने की तिथि से एक महिना के अंदर प्रश्नगत जमीन से अपना दखल-कब्जा हटाकर आवेदक को दखल-कब्जा दें दें। साथ ही अंचल पदाधिकारी विजयीपुर को निदेश दिया जाता है कि वे आदेश का अनुपालन कराना सुनिश्चित करें ताकि विवाद नहीं हो।"

I do not find any apparent error in the said findings of the learned DCLR. The learned counsel for the appellant failed to point out any specific error in the said order or failed to produce any documentary evidence in support of his claim so as to enable this Court to make any interference in the said order.

For the aforementioned reasons, the impugned order is upheld and this appeal petition lacking merit is dismissed.

Dictated and Corrected by me.

  
30/06/18  
Commissioner  
Saran Division, Chapra.

  
30/06/18  
Commissioner  
Saran Division, Chapra.