

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 84/2014

Dhrup Deo Shukla

Vrs.

The State of Bihar & ors.

ORDER

The instant appeal petition is directed gains the impugned order passed by DCLR, Hathua in Land Dispute Resolution case No. 59/2013-14 on 30.01.2014.

The brief facts of the case are that the present appellant Dhrupdeo Shukla S/o Late Shambhu Narayan Shukla, R/o VIII-Pakadi, Post-Bairia, P.S.-Kateya, Dist-Gopalganj filed a case before DCLR, Hathua and in the said case, state of Bihar, consolidation officer and Harihar Sah were impleaded as ops. In the said case the relief sought for by the present appellant as petitioner that consolidation map be corrected and the lost area, after consolidation operation with respect to the plot No. 1128 and 1173 of khatia No. 121 of Mouza pakadi which total area 0.14 decimal and 2.76 respectively be restored because he has lost altogether 19 decimal of land after chakbandi operation and its finalization. Thereafter, the learned DCLR, after hearing the matter finally vide order dt. 30.01.2014 rejected the prayer of the appellant and accordingly disposed of the said case. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant while assailing the impugned order submitted that the same is cryptic and based on surmises and conjectures. He further submitted that area of plots in dispute, No. 1128 and 1173 given in khatian is correct but in map the said areas are wrong. He further submitted that even the C.O. cum chakbandi officer in his report submitted that the areas of plot No. 1128 is 14 decimal and area of plot No. 1173 is 2.76 decimal but the learned DCLR did not consider the same and similar held that after final publication no objection can be raised regarding preparation of map which is entirely a wrong view. He further submitted that the lower Court wrongly held that after final publication the function of chanbandi officer comes to an end and as re-survey has commenced also. The learned counsel further said that the learned lower Court in a similar nature of case has held other view which is contradictory to the view taken in the present case. He lastly submitted that as the impugned order is full of error, the same may be set aside.

The learned counsel appearing on behalf of the private respondent submitted that the entire consolidation proceeding and publication of the same was made in the knowledge of the appellant but he did not file any objection before the concerned authority. He further said that khatian and map prepared by the consolidation officer are final and they have been made correctly and the appellant has no right to challenge the same before the lower Court or before this Court. He further said that the learned lower Court has rightly dismissed the case of the appellant and there is no need to make any interference by this Court.

The learned Govt. pleader appearing on behalf of the state, on the other hand referred to the relevant provisions of Bihar Consolidation of Holdings and Prevention of Fragmentation Act-1956 and said that the learned lower Court has rightly held that after publication no objection can be raised regarding preparation of map and the lower Court also has no jurisdiction to decide the correctness of map.



Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it appears that the appellant has actually approached the learned DCLR against the final publication of consolidation proceeding with respect to his land of plot No. 1128 and 1173 whose total area stated to have been reduced after the consolidation proceeding. It is seen that the learned DCLR while deciding the case of the petitioner has rightly held that the petitioner case is not worth to be considered in view of the relevant provisions of the said Act. The relevant portion of his order is quoted below:

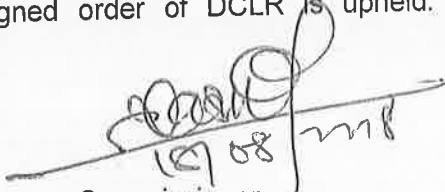
“ उभय पक्ष के विद्वान अधिवक्ता का बहस सुनने, प्रस्तुत दस्तावेजी साक्ष्यों के अवलोकन से स्पष्ट है कि वादी ने चकबंदी क्रम में हुई ब्रुटियो से असंतुष्ट होकर नक्शा में संशोधन का दावा प्रस्तुत किया है, परन्तु चकबंदी क्रम में इनके द्वारा किसी प्रकार की आपत्ति नहीं दी गई है। चकबंदी के मूल सिद्धांतों के आधार पर चक खेसरा वो नक्शा का अंतिम प्रकाशन के बाद उसके विरुद्ध आपत्ति नहीं की जा सकती। बिहार में रि-सर्वे का कार्य प्रारंभ है। इस जिले में रि-सर्वे के विभिन्न चरण का कार्य होना शेष है। वादी को रि-सर्वे के क्रम में दावे-आपत्ति मांगे जाने के समय अपना पक्ष रखना चाहिए। उक्त परिपेक्ष्य में प्रस्तुत वाद को अस्वीकृत किया जाता है। आदेश की प्रति पक्षकारों को उपलब्ध करा दी जाय। इसी के साथ वाद का निस्तारण किया जाता है।”

The learned counsel for the appellant has failed to set forth any substantial ground before this Court so as to enable this Court to make any interference in the impugned order of DCLR.

For the aforementioned reasons, the impugned order of DCLR is upheld. Accordingly this appeal petition is dismissed for want of merit.

Dictated and Corrected by me.


18/08/2018
Commissioner
Saran Division, Chapra.


18/08/2018
Commissioner
Saran Division, Chapra.