

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 64/2015
Most. Champa Devi
Vrs.
The State of Bihar
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 86/261/2013-14 on 13.08.14.

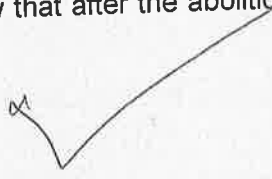
The brief facts of the case are that one Lakhichand Sah S/o Late Dayal Sah R/o Mouza Hardia P.S.-Barharia, Dist-Siwan filed a case under the BLDR Act-2009 in which C.O. Barharia was made as o.p. In the said case the prayer made by the petitioner was that the land measuring 1 katha 16 dhur of Mouza Hardia of Khata No. 139, plot No. 765 was settled to his ancestor Tota Bania by the ex-intermediaries in the year 1921 and ever since then the said land has been coming in his possession and having his courtyard, Nad and Khuta over that but after his attempt no Jamabandi has been created as such order be given to C.O. for creating Jamabandi of the said land. Thereafter, the learned DCLR after hearing the case finally vide order dt. 13.08.14 disposed of the matter with some direction to C.O. for further action in the matter. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal before this Court. Meanwhile during pendency of this case before this Court, the sole appellant died and later on the name of his wife has been substituted in his place as appellant in the instant case.

Heard the learned counsel for the appellant and learned G.P. for the state.

The learned counsel appearing on behalf of the appellant while assailing the impugned order submitted that the learned DCLR has wrongly held the land in question as Gair Mazurwa Aam instead of Gair Mazurwa Malik. He further submitted that the Ex-landlord Manjhagah had executed patta in the name of Tota Bania and when the husband of the appellant approached the circle office for the settlement, the Halka Karmchari had reported about the possession with respect to 1 katha 16 dhur land of the appellant. He further argued that the learned DCLR ought to have considered the possession of the appellant as an important point in favour of the appellant and the land is recorded in khatiyon as Gair Mazurwa Malik but the learned DCLR did not consider the same. He lastly argued that as the impugned order is erroneous, illegal and arbitrary, the same is fit to be set aside.

The learned G.P. opposed the arguments forwarded by the learned counsel for the appellant and submitted that after vesting of Zamindari all Gair Mazurwa Malik/Aam Land vested in the state and the appellant has no right to claim for settlement of the land which has been illegally kept by him. He also said that the impugned order is legally valid and fit to be upheld.

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 the appellant's claim over the land in question is mainly based on the ground that the said land was settled to his ancestor in the year-1921 by the Ex-landlord and ever since then the said land has been coming in his possession as such the rent be fixed. On the other hand the learned G.P. is of the firm view that after the abolition of Zamindari the said



land was vested in the state and the appellant has no right to claim over the said land. It is also seen that the learned DCLR has dealt with the matter in detail and finally arrived at the following findings:-

“ आवेदक की सुनवाई एवं अभिलेख में संलग्न कागजातों का अवलोकन किया गया। अंचलाधिकारी द्वारा प्रेषित पत्रांक 777.11 दिनांक 26.12.2013 से प्राप्त प्रतिवेदन के अवलोकन से विदित होता है कि विवादित खाता खतियान में गैर मजरुआ आम कर के इन्द्राज है, जिसका कुल रकबा 5 कट्ठा 8 धुर है जिसमें से वर्तमान में 3 कट्ठा 12 धुर भूमि की जमाबंदी संख्या 4 एवं 303 सिंगासन राम एवं बलिराम राम के नाम चलती है तथा विवादित भूमि आवेदक के दखल कब्जा में है, प्रतिवेदित है एवं जमाबंदी संख्या 543 खारिज कर दिया गया है। परन्तु जमाबंदी संख्या 4 एवं 303 कायम होने का आधार अंचलाधिकारी द्वारा प्रतिवेदित नहीं किया गया है। चूंकि विवादित जमीन गैर मजरुआ आम खाते की भूमि है, की जमाबंदी चलाना नियमानुकूल नहीं है। इस संबंध में अंचलाधिकारी को निदेश दिया जाता है कि विवादित खेसरे की भूमि का स्वयं स्थलीय जांच कर सरकार के हित के मद्देनजर रखते हुए नियमानुसार अग्रेतर कार्रवाई करें”। **The observation made by the learned DCLR, seems to be valid and proper.**

Furthermore, the learned counsel for the appellant has failed to point out any infirmity in the said order so as to enable this Court to make any interference in the said order. Hence, the impugned order is upheld and this appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me

Commissioner
Saran Division, Chapra.

Commissioner
Saran Division, Chapra.