

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 196/2012
Pashupati Singh
Vrs.
Laxaminidhi & ors.
ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Chapra Sadar in BLDR case No. 35/2012.

The brief facts of the case are that the present respondent Laxaminidhi S/o Raghubansh Singh and Sima Singh W/o Laxaminidhi both, R/o Vill-Khalpura Bala, P.S.-Chapra Muffasil, Dist-Saran filed a case before DCLR, Chapra Sadar by impleading the present appellants as o.ps. In the said case the prayer of the respondent (petitioner before DCLR) was that the land measuring 10 katha 1 dhur 16 ½ dhurki, of khata No. 205, Survey plot No. 367 situated in Mouza Khalpura Bala be demarcated by measurement from the big plot having total area 1 bigha 4 katha 4 dhur. Thereafter notices was issued to the appellants (o.ps before DCLR) and after hearing the learned counsel, survey knowing Commissioner was appointed. The survey knowing Commissioner after measurement of the said land submitted his report to the DCLR who after considering the objection filed by the o.ps and hearing the counsel finally vide order dt. 30.06.2012 confirmed the said measurement report. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before the Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellants termed the impugned order as bad in law as the learned lower Court has not properly appreciated the evidence which has been adduced by the o.p. appellant. He further argued that the learned lower Court has not properly considered the report of the survey knowing advocate Commissioner an even the objection filed on the said report has not been taken into account while passing the order. He further pointed out the there is a great difference between filed book and sketch map and plotted map which have not been considered by the learned court below. The learned counsel also strongly submitted that the appellant is the khatiyani raiyat but the respondent is the purchaser. He lastly submitted that in view of the apparent defects in the measurement report of the survey knowing Commissioner, the said report was not fit to be accepted by the learned DCLR as such the impugned order is fit to be dismissed.

The learned counsel appearing on behalf of the respondent while opposing the arguments forwarded by the learned counsel for the appellant, submitted that this appeal petition itself is not maintainable either in the facts of the case or in law as it has not been disclosed as to what wrong has been committed by the learned DCLR in passing the said order. He further submitted that the respondents are husband and wife had purchaser 10 katha 1 dhur 16 ½ dhurki and through the sale deeds from the rightful owner and a case was filed before DCLR only for the demarcation of the said land. He further argued that the survey knowing commissioner measured the said disputed land with due process and which was subsequently confirmed by the learned DCLR also. He also submitted that there is no illegality or irregularities in the order of the learned DCLR as such the impugned order is fit to be upheld and this appeal petition lacking merit be dismissed accordingly.

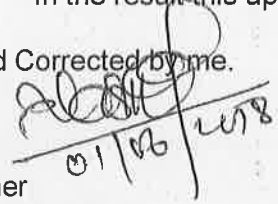


Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is seen that the dispute between the parties relates to the confirmation of measurement report of the survey knowing commissioner, submitted before the learned DCLR. The sole contention of the appellant is that the said measurement of the disputed land has not been done properly as required under the law. But the respondent is of the view that the said measurement of the disputed land has been done properly and for that reason the same has been confirmed by the learned DCLR. It is seen from the impugned order of learned DCLR that he has analyzed the said report submitted by the survey knowing commissioner and only after that he came to the conclusion that the said report is correct and he accordingly confirmed the same. It is seen that the learned counsel for the appellant miserably failed to point out any specific infirmity in the said impugned order so as to give any opportunity and scope to this Court to make any interference in the said order.

For the reason aforesaid, the impugned order is upheld.

In the result this appeal petition stands dismissed.

Dictated and Corrected by me.



01/06/2018

Commissioner
Saran Division, Chapra.



01/06/2018

Commissioner
Saran Division, Chapra.