

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

**B.L.D.R. Appeal No. 371/2013**

**Surendra Rai**

**Vrs.**

**Ram Dayal Bhagat**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Sadar Chapra in complaint case No. 66/2012-13 on 03.10.2013.

The brief facts of the case are that one Ram Dayal Prasad S/o Raushan Prasad R/o Vill-Sadhpur bali, P.S.-Kopa, Dist-Saran filed a complaint petition in the Janta Darbar of D.M. Saran in which he prayed that the present appellant be restrained from dispossessing him from the land which has been allowed to him by Parcha. The said complaint petition was transferred to DCLR who initiated a proceeding under the provisions of BLDR Act-2009 and accordingly notices were issued to the o.p. The case was heard and finally vide order dt. 03.10.2013 disposed of the same. Feeling aggrieved by the said order, the present appellant (o.p. before DCLR) has filed the instant appeal case.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted in details about the facts of the case. He argued that the land in question bearing khata No. 2 survey No. 493, 436, 409, 397, 488 having area 1 bigha 9 katha was in personal cultivation of its original raiyat Mahant Medhi Bhagat which was subsequently settled to the ancestor of the appellant after taking Nazrana long before 1951. He further argued that wrongly no refer was filed as such neither mutation was created nor Jamabandi opened but he remained in possession. The learned counsel further argued that the Govt. officials wrongly issued Parcha to some people of which the present o.p. was one person to get Parcha which is on paper only and he never got any possession. He lastly submitted that the learned DCLR without considering the real facts of the case, passed the impugned order which is illegal, arbitrary and fit to be set aside.

The learned counsel appearing on behalf of the o.p. while opposing the arguments forwarded by the learned counsel for the appellant, submitted that actually the land in question measuring 31 decimal and 27 decimal of plot No. 535 and 409 respectfully allotted to them through proceeding in settlement case No. 06/96 and C.O. given possession over the said land to the o.p. He further argued that the appellant on the basis of forged and fabricated documents put his claim over the said land and on the basis of muscle power he has evicted him from the said land. He further submitted that even Jamabandi No. 711 has been opened in favour of o.p. and he used to pay rent to the Govt. He lastly argued that as the appellant has dispossessed him validly settled land on the basis of invalid claim, the learned DCLR has passed a proper and valid order as such the said order is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, claims and counter claims made by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case dispute between the parties relates to their respective claim over the land on one or another basis. The claim of the appellant is that the said land was settled to his ancestor much before the year 1951 by the khatiyani raiyat after taking Nazarana and since then his ancestor has been coming in possession over the said land.

On the other hand, the claim of the o.p. is that the said land was settled to him by Parcha and for which Jamabandi has been opened and rent is being paid by him and the appellant has evicted him from the said land. Obviously, the nature of dispute between the parties is very much maintainable under the BLDR Act-2009. The learned DCLR in his detailed order discussed each and every aspects of the case appropriately before arriving at the final findings of facts. The operative part of the said order reads thus:-

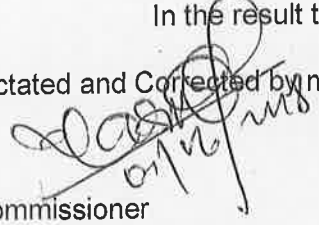
“ उपरोक्त उभय पक्ष के विद्वान अधिवक्ता के द्वारा दिये गये तर्कों, तथ्यों एवं दखिल कागजात से स्पष्ट है कि विषयगत भूखंड वादी को बिहार सरकार द्वारा गृह-स्थल योजना के अन्तर्गत बन्दोबस्ती वाद सं०-०६/९६ के तहत बन्दोबस्त किया गया है, जिसके आधार पर उक्त भूखण्ड पर आवेदक का अधिकार बनता है। अतः उक्त परिस्थिति में प्रतिवादी को निदेश दिया जाता है कि उक्त जमीन को वादी को हस्तगत करा दें, अन्यथा अपील अवधि के समाप्ति के पश्चात् अंचल अधिकारी जलालपुर स्थानीय थाना के सहयोग से वादी को उक्त जमीन पर दखल-कब्जा कराना सुनिश्चित करेंगे।”

The learned counsel failed to point out any specific illegality in the said order. On the other hand the claim of the respondent seems to be justified as the said land has been settled with his ancestor under a valid proceeding vide settlement case No. 06/96.

For the aforementioned reasons, the impugned order is upheld.

In the result this appeal is dismissed.

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.

  
Commissioner  
Saran Division, Chapra.