

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 149/2015
Rajdhari Singh & ors.
Vrs.
Ram Bacha Singh & ors.

ORDER

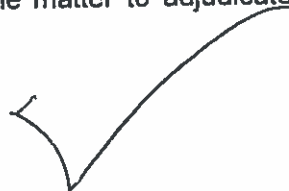
The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 138/334/2014-15 on 28.04.2015.

The brief facts of the case are that Ram Bacha Singh & ors. (petitioners before DCLR) all resident of vill-Sadikpur, P.S.-Pachrukhi, Dist-Siwan filed a case before DCLR, Siwan Sadar in which present appellants were made as respondents. In the said case the relief sought for by the present respondents with respect to that their ½ share be separated by measurement from the land recorded in Khata No. 18 (sikami khata No.1) having plot No. 4614, 4617 and 4620 which total area 15 katha 17 dhur. The learned DCLR after hearing the parties finally vide order dt. 28.04.15 passed order directing C.O. pachrukhi and officer-in-charge Pachrukhi that share of the present respondent be separated through measurement. Feeling aggrieved by the said order the present appellant preferred the instant appeal before this Court.

Heard the learned counsel for the appellant only, as the learned counsel for the respondents remained absent despite being given last chance vide order dt. 22.06.17.

The learned counsel appearing on behalf of the appellants while assailing the impugned order submitted that the learned Court below ought to have held that the Court of DCLR has no jurisdiction to entertain and decide the question of title. He further submitted that the learned lower Court should have directed the respondent to go in Civil Court for decision of title. The learned counsel further argued in detail regarding the nature of dispute between the parties and also highlighted the points upon which the appellants title is based and also strongly submitted that the Court below ought to have held that the land in question is sikami land of ancestor and sikami right is personal right. He lastly submitted that as the impugned order is illegal, arbitrary and against the provision of BLDR Act, the same is fit to be set aside.

Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the appellant and on perusal of the impugned order it is seen that the dispute between the parties basically relates to separation of share with respect to disputed land which is recorded in khatiyani as sikami land. It is also seen that the present respondent approached the Court of learned DCLR for seeking relief that his ½ share be demarcated after measurement and the learned DCLR went on to pass order granting relief sought for. I find that the learned DCLR is not competent to decide share of the parties with respect to raiyati land under the BLDR Act. In fact, the learned DCLR should not have entertained the matter to adjudicate such kind of



complex issue brought before him. On that account, the impugned order of DCLR becomes extra-jurisdictional order and obviously such kind of order can not be upheld in view of the observation made by the Hon'ble High Court in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors.

For the aforesaid reasons, the impugned order is set aside and this appeal petition is disposed of accordingly.

Dictated and Corrected by me.

Commissioner
Saran Division, Chapra.

Commissioner
Saran Division, Chapra.