

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 196/2013

Prabhu Nath Rai & ors.

Vrs.

Akhilesh Kumar Singh

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj In case No. 83/2013-14 on 09.04.2013.

This case was taken up for hearing on 22.06.17. The learned counsel for the appellatant was absent.

The learned counsel for the respondent insisted for dismissing the case as the appellatant has been keeping himself absent and also harassing unnecessarily to the respondent. He further submitted that previously on two occasions last chance was given to the appellatant but inspite of that he failed to file his presence today. Learned counsel, further argued that the instant case is not maintainable as the dispute between the parties relates to raiyati land. He also drew attention of the Court towards the observations made by the Hon'ble High Court in case of Maheshwar Mandal Vrs The state of Bihar & ors.

However, as the appellatant's counsel was absent despite have been given last chance on two occasions i.e. on 16.10.15 and 13.06.16, it would be fair to dispose of this case on merit only after going through the ground set forth by the appellatant in his memo of appeal petition.

The learned counsel for the appellatant in his memo of appeal petition has dealt with the facts of case and thereafter, specifically mentioned that the case brought before the DCLR, involved complex question of title with respect to the disputed land. He further mentioned that as per provision of section 4(5) of BLDR Act-2009, the leaned DCLR, ought to have directed the parties to seek relief from the competent Court of law and have closed the proceeding but instead of doing so he went on to pass the order. He lastly mentioned that the order of learned DCLR is arbitrary and without jurisdiction as such the same is fit to be set aside.

Considering the facts and circumstances of the case, material available on records and on going through the memorandum of appeal petition as well as the impugned order, it appears that in the instant case both parties claim their right over the certain areas of the big plot on the basis of sale-deed and subsequent Mutation done in their favour. Neither of then comes in the category of allottee and settlee. Obviously, the case itself was not maintainable before DCLR as per that observations made by the Hon'ble High Court in the case of Maheshwar Mandal Vrs The State of Bihar & ors.

For the aforesaid reasons, and due to lack of merit in the case, this appeal petition is dismissed.

Dictated and Corrected by me


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.