

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 205/2013

Kusum Devi

Vrs.

Subh Narayan Rai & ors.

ORDER

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in Land Dispute Resolution case No. 25/2011-12 on 24.06.2013.

The brief facts of the case are that the present appellant Kusum Devi W/o Raghunath Prasad, R/o Vill-Jagadishpur, Circle-Bhagwanpur Hat, Dist-Siwan filed a case before DCLR, Maharajganj in which the present respondents were made as o.p.s. In the said case relief sought for by the present appellant (petitioner before DCLR) was that the disputed piece of land measuring 01 katha 16 dhur of khata No. 157 survey plot No. 162 her purchased land and the same is in her use from which the o.p.s are bent upon to dispossess her. Thereafter, the learned DCLR after issuing notices to the parties heard the case and finally vide order dt. 24.06.2013 rejected the said case. Feeling aggrieved by the said order, the present appellant has preferred the instant appeal case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant at the very outset of his argument submitted that the impugned order is bad in law as well as the weight of evidence on record. He further argued that the learned DCLR has wrongly decided the right and title of the parties under the BLDR Act whereas such complex question can only be decided by the competent Civil Court. The learned counsel further argued in detail as to how the appellant came in possession over the said land and on what ground the respondents want to dispossess her from her peaceful possession. He lastly said that as the appellant is claiming her right over the land purchased through sale deed, the respondent can not lay their claim on the same on the basis of mortgage.

The learned counsel appearing on behalf of the respondent strongly opposed the contention made by the learned counsel for the appellant and said that the case brought before DCLR by the appellant itself was not maintainable on the ground that he sought relief regarding recovery of possession and the learned DCLR has no authority to decide or grant such relief under the provision of BLDR Act. He also referred to the judgement of Hon'ble High Court passed in the case of Maheshwar Mandal & ors Vrs the State of Bihar & ors. and also filed the copy thereof. He lastly said that as the impugned order is without jurisdiction, 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 parties and on perusal of the impugned order, it is quite obvious that in the instant case, the dispute between the parties relates to their respective claim over the private land what stated to have been acquired by them on one or another basis. In view of the fact that as non of the parties belong to category of allottee or settlee, the said dispute could not have been looked into by the learned DCLR under the BLDR Act. But the learned DCLR instead of directing the parties to approach the competent Civil Court

for adjudication of their claim went on to decide the vexed issue of right and title. On this ground alone the impugned order is not sustainable. Even the parties in contest also admitted that the dispute between them pertains to raiyat land.

It is well established that the subject matter of adjudication under the BLDR Act does not include such matters. The Hon'ble High Court in its judgment in CWJC No. 1091/2013 (Maheshwar Mandal & ors The State of Bihar & ors) on 24.06.2014 has observed that the revenue authorities are not empowered to entertain matter not arising out of the six enactments mentioned in schedule-1 of the BLDR act-2009. Obviously the instant matter does not fall under any of the said six enactments and as such it was not maintainable before the lower Court.

Thus, for the aforesaid reasons and keeping in view the observations made by the division bench of the Hon'ble High Court as quoted above, the impugned order of DCLR is set aside and the appeal is accordingly disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra