

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

**B.L.D.R. Appeal No. 308/13**

**Rameshwar Sah & ors.**

**Vrs.**

**Rakesh Pandey**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in Land Dispute Resolution case No. 241/2012-13 on 10.10.2013.

The brief facts of the case are that a case was initiated by the DCLR pursuant to an application filed by the present respondent, Rakesh Pandey in the Janta Darbar of D.M. Siwan and on the report received from C.O. Lakrinabiganj. Further case is that the land measuring 12 katha 2 dhur of khata No. 250 plot No. 1132 is recorded in khatiyan as Gair Mazurwa Malik having Parti Kadim nature and part of the said land has been used as road last 30 years by the villagers. When the present appellants (o.ps before DCLR) came to know that the said road is to be converted as P.C.C. road for which estimate has been prepared, they obstructed the said road for movement by fixing bamboos and pillars. Thereafter, the learned DCLR, after hearing the case, finally vide order dt. 10.10.2013 allowed the said case and also directed the concerned C.O. to initiate the encroachment proceeding holding the said land to be Gair Mazurwa Malik for which wrong jamabandi has been created. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the appellants only as the learned counsel for the respondent remained absent despite being given last chance on 10.08.17 by this Court.

The learned counsel appearing on behalf of the appellant submitted that the impugned order is illegal and improper inasmuch as the learned lower Court has erred in passing order in a matter in which complicated question of title is involved and instead of deciding the complex issue he should have directed the parties to approach the competent Civil Court. The learned counsel further highlighted the case of appellants and submitted that the land in question is recorded in R.S. Khatiyan as Gair Mazurwa Malik and Ex-landlord Shri Niwash Narayan Singh has executed a general power of attorney with respect to the said land and some other land in favour of Mathura Prasad and also submitted return in his name. Thereafter, Mathura Prasad on the basis of said return executed a sale deed on 12.08.1959 in favour of Ramyad Sah and subsequently his name mutated in Resister-II and paying rent. He further submitted that although there involved complicated question of title, but the learned DCLR, wrongly decided that Mathura Prasad had neither title nor possession to execute a sale deed in favour of Ramyad Sah. He also argued that the learned Court wrongly held that the jamabandi No. 654 is illegal, forged and fabricated. He lastly submitted that as the impugned order is arbitrary and without jurisdiction, the same is fit to be set aside.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the appellant and on

perusal of the impugned order, it appears that in the instant case the dispute essentially involved about the land which has been recorded in R.S. khatiyan as Gair Mazurwa Malik land. The claim of the appellant is that the said land has been transferred to one Mathura Prasad by the Ex-landlord and accordingly return was also filed and later on one Ramyad Sah got the said land on purchase and jamabandi No. 654 was created. It is also seen that the learned DCLR after discussing each and every details of the case as well as relevant records available in circle office, finally came to the conclusion that the appellants do not have any valid documents to claim their right over the said land and even opined that the said jamabandi No. 654 has also been obtained fraudulently and accordingly he ordered to initiate proceeding for cancellation of the said jamabandi. This findings can not be termed as wholly illegal or extra-jurisdictional and also in view of the fact that the appellants have miserably failed to prove their claim beyond all reasonable doubts that the jamabandi No. 654 with respect to the said land is legally correct and valid.

For the aforementioned reasons, the impugned order is sustainable and hence the same is upheld. This appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.

  
Commissioner  
Saran Division, Chapra.