

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal No. 74/2015**  
**Deohari Devi**  
**Vrs.**  
**Devendra Dubey & ors.**  
**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR Siwan Sadar in BLDR case No. 29/224/2014-15 on 28.11.2014.

The brief facts of the case are that the present appellant Deohari Devi w/o Sanjay Dubey, R/o Vill-Sarauti, Circle-Pachrukhi, Dist-Siwan filed a case before DCLR as petitioner in which the present respondents were made as o.ps. In the said case the petitioner sought for relief to the extent that the residential house constructed in plot No. 1308 after amalgamating the purchased land measuring 3 dhur 5 dhurkhi over which her right be declared as the o.ps were bent upon to encroach the said land and furthermore, to remove the encroachment. Thereafter, the learned DCLR heard the case and finally vide order dt. 28.11.14 disposed of the matter without any recording any findings. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the appellant only as the learned counsel for the o.ps remained absent on call after filing haziri despite being given last chance on 24.08.17 vide order dt. 06.07.17. The learned counsel insisted for disposing this case by ex-party order.

The learned counsel for the appellant, in his brief argument submitted that the appellant is residing peacefully on the said disputed land and when the o.ps encroached the said vacant land, she filed a case before DCLR seeking relief that her right be declared over the said land. He further argued that the learned DCLR without going into the facts of the case and nature of dispute between the parties passed the order without any concrete findings. As such the said order is fit to be dismissed and this appeal petition be allowed.

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 appellant initially approached the learned DCLR, under the provision of BLDR Act, seeking relief for declaration of her right over the disputed land. Although learned DCLR has not passed any specific order with regard to right and title of the parties, but in fact the case itself was not maintainable before DCLR in view of the relief sought for by the petitioner under the BLDR Act. The dispute between the parties relates to right and possession over raiyati 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.