

**In The Court of Commissioner, Saran Division, Chapra**  
**B.L.D.R. Appeal No. 90/2014**  
**Raghunath Bherihar & ors.**  
**Vrs.**  
**Laldeo Bherihar & ors.**  
**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 92/268/2013-14 on 17.02.2014.

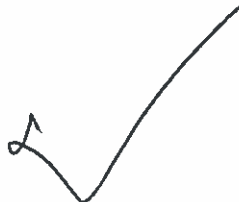
The brief facts of the case are that the present respondent Laldeo Bherihar S/o Late Akalu Bherihar and others filed a case before DCLR, Siwan Sadar in which the present appellants were made as o.ps. In the said case, the prayer made for granting relief to the extent that the disputed land in question of khata No. 54, plot No. 378, area 6 khata 4 dhur be demarcated after measurement and their two shares from that land be separated. The learned counsel after hearing the parties finally vide order dt. 17.02.2014 allowed the said case and ordered for removal of encroachment, if any from the said land. Feeling aggrieved by the said order, the present appellants (o.ps before DCLR) have preferred the instant appeal before this Court.

· Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant assailed the impugned order by saying that the said order is bad in law and facts both as the same has been passed without appreciating the document on record. He further argued that the learned DCLR ought to have held that the case brought before him involved complicated question of title and he has got no jurisdiction to decide the question of title. He lastly submitted that the impugned order is fit to be set aside as the learned DCLR has got no power to remove encroachment of private land.

The learned counsel for the respondent, on the other hand vehemently opposed the argument forwarded by the learned counsel for the appellant and said that the respondents have their vested right in the disputed property and hence the respondents are entitled to get order of demarcation in respect to the disputed plots and the respondents are also entitled to get possession over 2/3 rd demarcated share. He also submitted that the respondent had prayed before the lower Court for demarcation of land which was within the jurisdiction of the learned lower court and complex question of title was not involved at all. He lastly said that the impugned order is just and proper hence the same is fit to be upheld.

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 apparent that in the in the instant case dispute between the parties pertains to private land and non of the parties qualify to be considered as allottee or settle. It is also important to mention here that the present respondent had initially approached the learned DCLR under the provision of BLDR Act-2009 for partition of his ancestral land. In fact such kind of prayer or relief is not maintainable under the BLDR Act. In fact the learned DCLR should not have decided such complex issue under the BLDR Act.



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.