

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

**B.L.D.R. appeal No. 340/2013**

**Ali Akhtar & Ors.**

**Vrs.**

**Urmila Devi & Ors.**

**ORDER**

15.12.2015 - This instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in B.LDR Case No. 15/191/2013-14 on 21.10.2013.

The brief facts of the case are that the present respondent Urmila Devi W/o Baleshwar Giri and Manju Devi W/o Ashok Kumar Giri, both R/o Village- Rasoolpur, P.S.- Barharia, Dist- Siwan filed a case before DCLR, Siwan Sadar in which present appellants were made opposite parties. In the said case the prayer of the respondents (petitioners before DCLR) was that the disputed piece of land measuring 10 Katha, appertaining to khata No. 69 plot No. 241 situated in Mauza Rasoolpur was purchased by their mother panna Devi in the year 1991 and Jamabandi No. 97 was created and after her death the said land remained in their possession. Further case was that the present appellants (Ops before DCLR) having no title or possession over the said land but they used to harass them as such they should be restrained from making any harassment and the case be allowed. The learned DCLR after hearing the parties finally vide order dated 21.10.2013 allowed the said case holding that the disputed piece of land was the purchased land of their mother and the O.ps interference is not legally valid.

On being aggrieved by and dissatisfied with the aforesaid order, the present appellants have preferred this appeal before this court.

Heard the parties.

The learned counsel appearing on behalf of the appellant submitted at the very outset of his argument that the impugned order of the DCLR is thoroughly illegal, perverse and without jurisdiction. He further argued that the learned DCLR ought to have held that the petition of the respondents was not maintainable as the case institute involved complex question of adjudication of title. He also argued that the learned DCLR has wrongly held that the rent receipts filed on behalf of the appellants do not contain Khata No. and plot No. of the disputed land. He also submitted that the disputed land was recorded in the R.s. Khatian in the name of Kishun Turha and the appellants got a sale deed executed on 9.09.1981 respect of the said land in the name of his



relative namely Zamil Mian of village Alamper from Mogal Sah and Jamabandi No. 82 stands in the name of Zamil Mian. He also submitted that although, the appellants filed photo-state copies of the sale deed, rent receipts and order passed by learned session judge, Siwan in Cr. Revision No. 241/11 but the learned DCLR did not consider the same. He lastly submitted that the impugned order is fit to be set aside.

The learned counsel appearing on behalf of the respondents, while opposing the arguments advanced by the learned counsel for the appellant, submitted that the impugned order is quite legal and justified and the same is within the jurisdiction of the court. He further submitted that the allegation of the appellants leveled against the order under appeal is baseless and not supported by any law and the documents filed by the appellants is not related to the disputed plot. He lastly submitted that the order under appeal has been passed within the ambit of the BLDR Act as such the same is fit to be upheld and this appeal be dismissed.

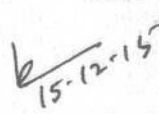
Considering the facts and circumstances of the case, material available on records, respective arguments made by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case both parties claim their title on the basis of alleged sale deeds stated to have been executed by the descendants/ legal heirs of the khatiyani raiyats. Both parties also claim that the jamabandi exists in the name of the purchaser. Obviously it is a case where determination of complex question of title is involved. The learned counsel for the appellants is of the view that such complex issue relating to adjudication of title can not be decided under the BLDR Act. I find this view of the appellant to be acceptable in the light of the recent judgments of Hon'ble High Court, in the case of *Maheshwar Mandal & Ors. Vrs The State of Bihar & Ors.*

For the aforementioned reasons, the impugned order is not sustainable and hence the same is set aside.

Accordingly, this appeal is disposed of.

Dictated and Corrected by me.

  
15-12-15  
Commissioner,  
Saran Division, Chapra

  
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Saran Division, Chapra