

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 78/2013
Budhan Sah
Vrs.
Gangadhar Chaudhary & ors
ORDER

21-11-2015- The instant appeal is directed against the impugned order passed by DCLR, Hathua in BLDR case No. 186/2012-13 on 07.01.2013.

The brief facts of the case are that Budhan Sah S/o Braham Deo Sah, R/o Vill-Koraiya, P.S.-Vijayipur, Dist-Gopalganj filed a case under the provision of BLDR Act-2009 before DCLR, Hathua by making present respondents as opposite party. In the said case the prayer of the appellant was that the 12 decimal land acquired by his grand father Sukai Teli and 6 katha land by his father Braham Deo Sah from Bhoodan Yagna Committee, situated in vill-Koraiya having khata No. 66 and plot No. 11 out of which the present respondents have made forcible possession and disposed them from the said land. His further prayer was that illegal possession of the respondents be removed and delivery of possession of the said land be made in favour of the petitioner. The learned DCLR after hearing the parties came to the conclusion that the claim of the appellant was not fit to be accepted and accordingly he rejected the said case vide his order dt. 07.01.2013.

On being aggrieved by and dissatisfied with the aforesaid order, the present appellant has preferred this appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that the disputed land was donated to the grand father of the appellant by the Bhoodan Yagna committee and Hathua Raj and the said land was in the possession of the appellant and jamabandi No. 120 is running in the name of appellant's father Braham Deo Sah and both piece of land have been merged into one piece. He further argued that the appellant filed documentary evidence like: Bhoodan certificate No. 119727/784208 dt. 20.06.66 measurement report of Anchal Amin, Vijayipur dt. 02.11.2010 and photo copy of DCLR'S order of case No. 20/1968-69 in which the present respondent was opposite party in support of his claim before DCLR but the learned DCLR did not consider all these evidences and rejected the case. He further submitted that the respondent's land and appellant's land are situated side by side and both are parts of plot No. 11 and the respondent's are strong and mighty persons want to grab the land of the appellant on the basis of force having without any legal right. He also submitted that the learned DCLR disbelieved the case of the appellant and rejected his case without considering all aspects of the case as such the impugned order of DCLR is liable to be set aside.

The learned counsel appearing on behalf of the respondents on the other hand, vehemently opposed the pleadings advanced by the learned counsel for the appellant and submitted that the instant appeal has been filed only for harassing the respondents otherwise the learned DCLR has passed a legally correct and proper order as per the evidence available on the records. He further argued that the appellant intentionally harassing the respondents on the basis of false and fabricated documents

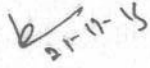
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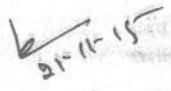
but the learned DCLR has rightly examined, considered and discussed all the documentary evidences filed by both parties in his order and has passed a reasoned and valid order. He also submitted that on two occasions in the past the appellant alongwith with his father and brothers have been convicted by the criminal Court u/s 323, 379, IPC on the complaint of the respondents for crop cutting (theft) from the land in question. He also argued that the appellant has deliberately stated in his appeal petition that the respondent Gangadhar Chaudhary had purchased 1 bigha 10 katha land from Maharani Durgeshwari Sahi but actually the respondent had purchased 2 bighas 10 katha of land from Maharani Durgeshwari Sahi by registered sale deed on 04.01.1969. The learned counsel lastly said that the instant appeal petition having no merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, claims and counter-claims made by the learned counsel for the parties and on perusal of the impugned order, it is seen that both parties are claiming their right and possession over the said disputed land in question either on the basis of alleged Bhoodan settlement in his favour or on the basis of registered sale deed executed by the rightful owner of the said land. It is seen that the learned DCLR has decided the matter through a detailed and reasoned order and came to conclusion that the claim of the present appellant was not legally correct rather the possession of the respondents were found to be true on the basis of sale deed and accordingly he rejected the said case. The learned counsel for the appellant has miserably failed to point out any specific illegality or infirmity in the said impugned order of the DCLR, Hathua so as to give any reason to this Court to interference with the same accordingly the same is upheld.

For the aforesaid reasons, this appeal petition being devoid of any merit is dismissed.

Dictated and Corrected by me.


Commissioner,
Saran Division, chapra


Commissioner,
Saran Division, Chapra