

In The Court of Commissioner, Saran Division, Chapra

B.L.D.R. Appeal No. 163/2014

Rama Shankar Prasad & ors.

Vrs.

Vikarma Singh

ORDER

The instant appeal application is directed against the impugned order passed by DCLR, Maharajganj in Land Dispute Resolution case No. 172/2013-14 on 10.05.2014.

The brief facts of the case are that the present respondent Vikarama Singh S/o Late Ram Chandra Singh R/o vill-Sihauta, P.S.& Circle-Maharajganj, Dist-Siwan filed a case before DCLR, Maharajganj under the BLDR Act-2009 in which the present appellants were made as o.ps. In the said case the present respondent (petitioner before DCLR) sought relief to the extent that 4 dhur land of R.S. plot No. 688, khata No. 176, situated in Mouza Kapia Nizamat was purchased by him through registered sale deed on 05.05.1986 from rightful owner over which the present appellants want to grab the same on the basis of forged document. His further prayer was that the o.ps be restrained from doing so and in case of his dispossession from the said land, his possession be recovered. Thereafter, the learned DCLR after hearing the case finally vide order dt. 10.05.2014 allowed the said case and also restrained the o.ps from making any interference on the said land. Feeling aggrieved by the said order, the present appellants (o.ps before DCLR) have preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties.

The learned senior counsel appearing on behalf of the appellant at the very outset of his argument, submitted that the impugned order is not sustainable in law in view of the fact that the learned DCLR instead of dropping the case and directing the parties to approach the competent Civil Court went on to decide the complex question of right and title of the parties for which he is no way competent under the BLDR Act. He further argued that from perusal of the fact of the case it is clear that there is serious dispute of title between the parties and the learned DCLR has got no jurisdiction to decide such complicated issue under the BLDR Act. He also referred to the recent decision of Hon'ble High Court passed in the case of Maheshwar Mandal & ors. Vrs The State of Bihar & ors. in support of his plea that DCLR has got no power or authority under the BLDR Act to decide the issue of right and title. He lastly said that as the impugned order is without jurisdiction and against the observation of the Hon'ble High Court the same is fit to be set aside.

The learned counsel, on the other hand, vehemently opposed the arguments forwarded by the learned counsel for the appellant and submitted that the impugned order is just and proper. He further argued that the respondent has actually

purchased only 4 dhur of land through registered sale deed from rightful owner on 05.05.1986 and having his possession thereon. He also submitted that when the appellants tried to dispossess him from the said land, he approached the competent authority seeking relief to save him from dispossession. He lastly said that the learned DCLR has passed a valid order as such the same is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that in the instant case dispute between the parties relates to their respective claim over the disputed land whose very nature is private land. Both parties lay their claim over the said disputed land on one or another basis. The claim of the appellant is that he has purchased the said land through sale deed whereas the respondent also claims to have purchased the same through sale deed and having his possession. Obviously the dispute essentially involves determination of right and title of the parties and certainly this kind of complex issue relating to adjudication of title can not be decided 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.