

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

**B.L.D.R. Appeal No. 55/2014**

**Sahebjada Mian & ors.**

**Vrs.**

**Isa Mohammad**

**ORDER**


The instant appeal petition is directed against the impugned order passed by DCLR, Marhaurah in case No. 85/2013-14.

The brief facts of the case are that the present respondent Isa Mohammad S/o Late Mahboob Mian, R/o vill-Chand Kudaria, P.S.-Mashrakh, Dist-Saran filed a case before DCLR, Marhaurah in which the present appellants were made as o.ps. In the said case, the petitioner sought relief with respect to removal of illegal occupation over part area of the land which was settled to his father and the said fact came to his knowledge after the measurement of the said land. The said disputed land having total area 4 decimal of khata No. 298, plot No. 1476 out of which about 6 dhur of land was illegally captured. Thereafter, the learned DCLR after issuing notices to the parties, heard the case and finally vide order dt. 31.12.2013 allowed the said case wherein he held that over 6 dhur of land the present appellant (o.ps before DCLR) have made illegal occupation and for that he ordered for the removal of the same. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant the very beginning of his argument submitted that the impugned order is illegal and erroneous. He further argued that the learned Court below has not properly appreciating the facts of the case as well as arguments advanced by the advocate on behalf of the appellant. The learned counsel further highlighting the important facts of the case submitted that the said land is recorded in the name of Amanat Mian on the basis of Parcha granted by circle office, Mashrakh in the name of his father Mahboob Mian. He further said that after measurement, it has been found that only 16 dhurs of land is in the possession of Isa Mohammad and not 22 dhurs as claimed by him and the rest 6 dhur towards north is with Saheb Jada Mian, surviving heirs of khatiyani raiyat Amanat Dhobi. He also drew the attention towards the fact that earlier a title suit No. 180/1991 was decided by the Court of Munsif-4, Chapra on the basis of compromise between the parties and as per terms of compromise the appellant got 6 dhur and the respondent 16 dhur land. He lastly said that the learned DCLR without considering the fact wrongly held that the 6 dhur land has been encroached by the appellant as such the said order is fit to be set aside.

The learned counsel appearing on behalf of the respondent while opposing the arguments forwarded by the learned counsel for the appellant, submitted that the father of this respondent had actually got the said land by a Parcha case No. 09/1988-89 after due inquiry. He further said that after settlement through Parcha, Mahboob Mian, father of this respondent becomes absolute owner



of the land and after his death this respondent came in possession. He also said that the appellants being powerful person illegally encroachment 6 dhur of the said settled land and the learned DCLR after considering the whole facts of the case passed a reasoned and legal order so far as removal of encroachment is concerned and the appellant has no legal right over the disputed land. He lastly said that as the appeal has been preferred on baseless ground the appeal petition itself is fit to be dismissed and in turn the impugned order is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, claims of counter-claims raised 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 a piece of land stated to have been settled through Parcha. Both parties lay their claim over the said land on one or another basis. The claim of the appellant is that the said land was settled to his ancestor by the Govt. On the other hand, the claim of the respondent is that the said land was settled to his grand father after a proceeding in Parcha case No. 09/1988-89. It is seen that the learned DCLR has discussed in detail about the whole aspects of the case before arriving at the final findings of fact. The learned counsel for the appellant failed to point out any illegality in the said order so as to warrant any interference in the said order from this Court.

For the aforesaid reasons, the impugned order is upheld, and this appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.

  
Commissioner  
Saran Division, Chapra.