

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

**B.L.D.R. Appeal No. 8/2015**

**Jawahir Rai & ors.**

**Vrs.**

**Ramrit Thakur**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Maharajganj in BLDR case No. 70/2014-15 on 11.12.2014.

The brief facts of the case are that the present respondent Ramrit Thakur, S/o Late Jai Thakur, R/o Vill-Sahsaraw, P.S.-Bhagwanpur, Dist-Siwan filed a case before DCLR, Maharajganj in which present appellants were made as o.ps. In the said case the present appellant (petitioner before DCLR) sought relief that over 8 katha of land which fell in his share after partition from which the o.ps have dispossessed him on the basis of forged documents as such his title be declared and possession be recovered after measurement. Thereafter, the learned DCLR heard the case and finally vide order dt. 11.12.2014 disposed of the said case with to the local C.O. and O.C. to ensure delivery of possession in favour of the petitioner. 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 appellants at the very outset of his argument submitted that in the instant case complicated question of law and facts are involved which can not be decided by the learned DCLR as he is not competent to do so under the provision of BLDR Act. He further argued that the appellants are the purchaser of half share of Munar from his daughter and the said land is under dispute. He also said that the appellants have mutated their names and are paying rent to the State. The learned counsel further submitted that in the instant case some important disputed question of facts like Gulab Jhari Devi's father Munar was the son of Sachu or not whether the sale deed documents are forged or not and whether the story of dispossession alleged by the respondent is correct or not. As such the learned DCLR is not competent to decide these points rather these points can only be decided by the competent Civil Court. He also argued that previously a Title Suit No. 59/2006 was filed by o.p. in Civil Court which has been dismissed in default and, thereafter a case for the same issue has been filed by the respondent before DCLR. He lastly said that as the case was not maintainable before DCLR, the impugned order is fit to be set aside.

The learned senior Counsel appearing on behalf of the respondent submitted that the appellants was actually entrusted with the task of looking after the disputed land but in order to grab the same they prepared forged and fabricated document and on the basis of said illegal documents they have occupied the said land. He further said that a T.S. No. 59/06 was started between the parties in the Court of Munsif-2 Siwan and the said case was compromised on 26.03.2014. He further said that the claim of the appellants are baseless because the vendor of the appellant namely Gulabjhari Devi is not the daughter of Munar nor she had any

connection with the property of Munar. The learned counsel also argued that the learned DCLR after carefully considering each and every aspects of the case properly finally arrived at his conclusion that the claim of the appellant regarding the disputed land is false as such the impugned order is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, claim and counter claims made by the learned counsel for the parties and on perusal of the impugned order it is quite apparent that in the instant case dispute between the parties relates to private land. Both parties lay their claim over the disputed land on one or another basis. In fact the present respondent had also filed a case bearing Number T.S. 59/2006 in the Court of Munsif-2, Siwan for seeking declaration of title and recovery of possession and when the said case was dismissed in default as stated by the appellant, the respondent preferred the case before DCLR, seeking the same relief what sought by him in the Civil Suit. Obviously, the learned DCLR is no way competent to decide the complex question of title as he has been prohibited to do so as per the provision enshrined in section 4(5) of the BLDR Act-2009. But the learned DCLR instead of withdrawing himself from passing any order in the matter, went on to order for recovery of possession.

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.