

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1025 of 2018

=====

Shri Bhola Prasad Thakur S/o Late Sita Thakur, resident of Village- Bhekas,
P.O.- Akhalaspur, P.S.- Bhabhua, District- Kaimur.

... .. Petitioner/s

Versus

1. Anil Kumar Singh and Anr S/o Late Sarju Singh,
2. Shiv Shankar Singh, S/o Late Lalita Prasad Singh, Both resident of Village-
Bhekas, P.O.- Akhalaspur, P.S.- Bhabhua, District- Kaimur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Singh, Mr. Vagisha Pragya Vacaknavi, Mr. Nitin Kumar, Advocates.
For the Respondent/s	:	Mr. Chandra Shekhar Verma, Mr. Radha Mohan Pandey, Advocates

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 01-08-2022 Heard Mr. Binod Kumar Singh, learned counsel for

the petitioner and Mr. Chandra Shekhar Verma, learned counsel

appearing for the respondents.

2. The petitioner is aggrieved by order dated

08.06.2018 passed in Title Suit No. 36 of 2018 by the learned

Munsif (Civil Judge, Junior Division), Bhabhua whereby an

application filed by the petitioner under Section 10(2) of the

Bihar Land Disputes Resolution Act, 2009 (for brevity, 'BLDR

Act') has been dismissed and the learned trial court has refused

to abate the suit filed by the plaintiff/respondents.

3. Learned counsel for the petitioner submits that the

admitted position of fact is that the petitioner is the purchaser of



a piece of land situated in the Cadastral Survey Plot No. 473 which was bifurcated in the Revisional Survey in two plots bearing Plot Nos. 668 and 669. The respondent/plaintiff is also a purchaser of a piece of land in Cadastral Survey Plot No. 474 having an area of nine decimals which has been bifurcated in four plots in Revisional Survey bearing plot Nos. 658, 657, 653 and 659.

4. According to the petitioner, the petitioner is not challenging the title of the plaintiff upon plot number 658 and according to the plaintiff/respondent, they filed a suit for correction of the revisional survey map inasmuch as the contention of the plaintiff is that plot no. 658 has wrongly been shown to be a part of plot no. 669 in the map which belongs to the petitioner. Learned counsel for the petitioner submits that the petitioner was ready to get the plots measured by survey knowing pleader commissioner. In view of the same, the petitioner filed a petition before DCLR, Bhabhua bearing Case No. 02/2018 for measurement and the measurement was completed and a report was submitted. In view of the report, case has been disposed of.

5. In the aforesaid background, the petitioner filed a petition under Section 10(2) of the BLDR Act claiming that no



question of title is involved in the suit filed by the respondent/plaintiff, as such the same abates as the issue raised in the suit is the same as the issue in a case before the DCLR. He further submits that since no question of title is involved in the suit filed by the plaintiff/respondent and as per special Act i.e., BLDR Act- 2009, the jurisdiction for measurement of the plot and correction in the map prepared under Bihar Tenancy Act is of the DCLR, Kaimur, as such, suit abates as per Section 10(2) of the BLDR Act.

6. On the other hand, learned counsel for the respondents/plaintiff submits that the petition for abatement under Section 10(2) of the 'BLDR Act' has rightly been dismissed by the learned trial court after taking into consideration the statement made in the plaint and the relief sought for by the plaintiff inasmuch as the plaintiff has sought the declaration of title, permanent injunction and delivery of possession also. He further submits that in view of the judgment passed in the case of *Maheshwar Mandal v. The State of Bihar* as reported in **2018(3) PLJR 1007**, the question of title cannot be decided by the DCLR, as such, the provision of Section 10(2) of the 'BLDR Act' is not applicable in the facts of the case filed by respondents.



7. In view of the aforesaid submissions and the discussions held by the learned trial court, I find that there is no illegality in the impugned order inasmuch as from the plaint, it appears that the question of title has been raised by the plaintiff and the subject matter of the case before DCLR was for measurement of the land and correction of the survey map. As such, this application is dismissed.

(Anil Kumar Sinha, J)

perwez

U			
---	--	--	--

