

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4967 of 2023

1. Daroga Chaudhary Son of Late Deo Sharan Chaudhary @ Dev Sharan Chauhan. Resident of Village-Guljarpur, Ward No.5, Daudnagar, P.S.-Daudnagar, District-Aurangabad (Bihar).
2. Ramchandra Chauhan Son of Late Deo Sharan Chaudhary @ Dev Sharan Chauhan. Resident of Village-Guljarpur, Ward No.5, Daudnagar, P.S.-Daudnagar, District-Aurangabad (Bihar).
3. Anil Chaudhary Son of Late Deo Sharan Chaudhary @ Dev Sharan Chauhan. Resident of Village-Guljarpur, Ward No.5, Daudnagar, P.S.-Daudnagar, District-Aurangabad (Bihar).
4. Narsingh Chaudhary Son of Late Deo Sharan Chaudhary @ Dev Sharan Chauhan. Resident of Village-Guljarpur, Ward No.5, Daudnagar, P.S.-Daudnagar, District-Aurangabad (Bihar).
5. Suraj Chaudhary @ Suraj Kumar Son of Late Basant Chaudhary Resident of Village-Guljarpur, Ward No.5, Daudnagar, P.S.-Daudnagar, District-Aurangabad (Bihar).
6. Pramod Chaudhary @ Pramod Kumar Son of Late Basant Chaudhary Resident of Village-Guljarpur, Ward No.5, Daudnagar, P.S.-Daudnagar, District-Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The Competent Authority-Cum-Land Reforms, Deputy Collector, Daudnagar, Aurangabad.
4. The Sub-Divisional Officer, Daudnagar, Aurangabad.
5. Lakshman Chaudhary Son of Late Brij Mohan Chaudhary Resident of Village-Guljarpur, Ward No.5, Daudnagar, P.O.and P.S.-Daudnagar, District-Aurangabad (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrigendra Kumar, Advocate Ms. Kusum Kumari, Advocate Mr. Mayank Bilochan, Advocate
For the State	:	Mr. Asif Kalim, AC to AAG-12
For Respondent No.5	:	Mr. Baidyanath Prasad, Advocate Mr. Bijay Kumar Dubey, Advocate Mr. Rahul Kumar Shukla, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER



3 24-07-2025 Heard learned counsel for the petitioners, learned counsel for the State as well as learned counsel for the respondent no.5.

2. Learned counsel for the petitioners submits that the instant writ application has been filed seeking quashing of the order dated 09.02.2023, passed by the respondent no.3 (D.C.L.R., Daudnagar) in Land Dispute Case No.115/2022-23 (Annexure-1 to the writ application), whereby the D.C.L.R. has declared the right title of the private respondent no.5 over the land in dispute in the instant writ application and further had directed the Sub-Divisional Magistrate, Daudnagar, to take Prohibitory Measures under Section 15(3) of the B.L.D.R. Act for the implementation of the order dated 09.02.2023 passed in Land Dispute Case No.115/2022-23.

3. Learned counsel for the petitioners at the outset submits that in the nature of dispute which had arisen in between the petitioners and the private respondent no.5, the D.C.L.R., had absolutely no jurisdiction to interfere. It is submitted that the dispute was private. It is next submitted that one Late Brij Mohan Chaudhary had two sons, namely, Late Devsharan Chaudhary and Laksham Chaudhary. Late Devsharan Chaudhary had five sons, namely, Daroga



Chaudhary, Ram Chandra Chaudhary, Late Basant Chaudhary, Anil Chaudhary and Narsing Chaudhary (petitioners herein). Further Late Basant Chaudhary had two sons, namely, Suraj Chaudhary and Pramod Chaudhary. It is next submitted that the dispute which arose in between the petitioners and the respondent no.5 was with respect to ancestral property of Late Brij Mohan Chaudhary. It is submitted that respondent no.5 herein is claiming that the ancestral property, both movable and immovable, left by their father was amicably divided in between the respondent no.5 and Late Devsharan Chaudhary, for which a memorandum of partition was prepared in the year 1978 and accordingly, demand was also opened in their respective names. Further Late Devsharan Chaudhary sold his share of land which was allotted to him in terms of the memorandum of partition prepared in the year 1978. Further, the Municipal Survey record of right was also prepared separately in the name of Late Devsharan Chaudhary and Lakshman Chaudhary in the year 2010, as such, it is the case of the respondent no.5, namely, Lakshman Chaudhary, that the ancestral property of the family was amicably divided in between both the brothers and Late Devsharan Chaudhary in pursuance of partition of



property sold his share in the year 1983 onwards. The respondent no.5 was aggrieved by the fact that sons of Late Devsharan Chaudhary despite being aware of the fact that partition in the family had already taken place in the year 1978, and which was acted upon in the year 1983 but still they were coming on the land of the respondent no.5 with a view to dispossess him. As such, the respondent no.5 filed Land Dispute Case No.115/2022-23.

4. The learned counsel appearing on behalf of the petitioners at this stage draws attention of the Court to Annexure-1 of the writ application to submit that from perusal of Land Dispute Case No.115/2022-23, it would manifest that the respondent no.5 had prayed for the following reliefs:-

(I) That injunction be imposed against the opposite party so that the opposite party might not enter on the land of the applicant.

(II) That it be declared that the applicant has every right as a legal owner of the right mentioned in the schedule-A, which is the land of the share and demand of the applicant.

5. Learned counsel for the petitioners submits that the reliefs claimed by the respondent no.5 herein before the



D.C.L.R. was not in conformity with the provisions of the Bihar Land Dispute Resolution Act, 2009. It is next submitted that the Bihar Land Dispute Resolution Act, 2009, does not give any mandate to the D.C.L.R. to decide title of a land. Learned counsel for the petitioners, thereafter, draws the attention of the Court to the order impugned annexed as Annexure-5, passed by the D.C.L.R. in Land Dispute Case No.115/2022-23 and submits that from perusal of page-6 of the order impugned it would manifest that the D.C.L.R. has declared the title of respondent no.5 over the land in dispute by recording “भूमि पर अधिकार प्रख्यापित किया जाता है |”. It is thus submitted that when the B.L.D.R. Act does not mandate that the D.C.L.R. can adjudicate right title with respect to dispute in connection of raiyati land between private parties, in that event, the order impugned becomes vulnerable. It is also submitted that neither the petitioners nor the respondent no.5 are allottees/ settlees of the land in dispute by the Government, rather the land is raiyati land of the parties and the parties are disputing. It is submitted that petitioners are disputing the partition which the respondent no.5 claims that it took place in the year 1978. It is thus submitted that the petitioners are disputing the partition and in their objection



filed in the Land Dispute Case No.115/2022-23, it was clearly pleaded that the petitioners disputes the partition on the ground that no partition ever took place, hence it is submitted that since partition was being disputed, then whether it was within the competence of the D.C.L.R. to adjudicate such dispute and declare the title of the respondent no.5 over the land in dispute, in accordance with Section 4 of the B.L.D.R. Act, 2009, the answer is 'No', as such, direction issued by the D.C.L.R. to the Sub-Divisional Magistrate, Daudnagar, under Section 15(3) of the B.L.D.R. Act, 2009 to give effect to the order dated 09.02.2023, is also without jurisdiction.

6. Learned counsels for the State as well as the respondent no.5 are not in a position to rebut the submission of the learned counsel for the petitioners that the D.C.L.R., is not the authority competent in terms of Section 4 of the B.L.D.R. Act, 2009, to decide title with respect to a land in dispute which is neither settled or allotted by the Government authorities.

7. After hearing the learned counsels for the parties, the Court is in complete agreement with the submissions made by the learned counsel for the petitioners.



As such, the order dated 09.02.2023, passed by the D.C.L.R.,
Daudnagar, is set aside.

8. However, the same would not preclude either of
the parties to move before the Court of competent civil
jurisdiction for seeking redressal of their grievance as raised
before the D.C.L.R.

9. Accordingly, the instant writ application stands
allowed.

(Satyavrat Verma, J)

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