

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ																						
31-08-2016	<p style="text-align: center;">In The Court Of: Land Reforms Deputy Collector, Arwal. <u>Case No. 95/ 2015-16</u> Yashwant Prasad Singh- applicant Vrs. Manikant Bhushan – opposite parties Present- Rakesh Kumar, DCLR <u>Learned Advocate of applicant</u> 1. Sri. Anil Sharma. <u>Learned Advocate of opposite parties</u> 1. Sri. Binod Kumar.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>Both the parties appeared at the time of hearing. The present case is related to</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="4" style="text-align: center;">Schedule</th> </tr> <tr> <th style="width: 15%;">Khata</th> <th style="width: 15%;">Plot No.</th> <th style="width: 15%;">Rakwa A- D</th> <th style="width: 55%;">Boundary</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><u>336</u> 137</td> <td style="text-align: center;"><u>2000</u> <u>1480</u> 1816</td> <td style="text-align: center;">0-4</td> <td rowspan="3" style="vertical-align: top;">N-Bhushan Singh & Kumar Abhishekh. S-Aahar Ka Pind. E-Mukesh Kumar & Kumar Abhishekh. W- manikant Bhushan & Anil Sharma.</td> </tr> <tr> <td style="text-align: center;"><u>336</u> 24</td> <td style="text-align: center;"><u>2001</u> 1480</td> <td style="text-align: center;">0-5</td> </tr> <tr> <td style="text-align: center;"><u>336</u> 244</td> <td style="text-align: center;"><u>1999</u> 1518</td> <td style="text-align: center;">0-8</td> </tr> <tr> <td colspan="2" style="text-align: center;">Total</td> <td style="text-align: center;">0-17</td> <td></td> </tr> </tbody> </table> <p>Mauza– Sachai, Anchal-Kurtha, P.S.-Kurtha, Dist- Arwal</p> <p>The learned advocate of applicant submitted that applicant is retired staff & land mentioned in schedule was purchased by his mother namely Sitapati Devi w/o Sada Nand Singh through registered kewala dated 24.03.1984. He informed that applicant's parents</p>	Schedule				Khata	Plot No.	Rakwa A- D	Boundary	<u>336</u> 137	<u>2000</u> <u>1480</u> 1816	0-4	N-Bhushan Singh & Kumar Abhishekh. S-Aahar Ka Pind. E-Mukesh Kumar & Kumar Abhishekh. W- manikant Bhushan & Anil Sharma.	<u>336</u> 24	<u>2001</u> 1480	0-5	<u>336</u> 244	<u>1999</u> 1518	0-8	Total		0-17		
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though expired but has five sons including him. However, after demise of parents, partition among family had taken place and disputed land came as his share and he has been paying rent to govt though demand exists in name of Sitapati Devi. Learned advocate submitted that when applicant tried to cultivate paddy in said land then opposite parties namely Manikant Bhushan s/o Late Harihar Singh (opposite party 01), Sumeet Kumar s/o Dinesh Prasad (opposite party 02), Gautam Kumar s/o Late Pramod Prasad (opposite party 03) illegally claimed over the land, so the case has been filed in this court. Learned advocate said that opposite parties are unnecessarily raising the question of title, infact they never challenged the said kewala nor has filed any objection or case against mutation done in favour of Late Sitapati Devi. He further stated that documents related to survey khatian submitted by opposite party is not final, so it has no legal validity. Learned advocate quoted the written statement of opposite party where land of khata 136/137 plot No.- 2000/1480/1846 rakwa- 11 decimal has been wrongly shown because as per new chakbandi survey khatian is 11 decimal but as per "karmik khatian" area is 08 dismal, out of which 04 is of Arjun Singh s/o Mahanand Singh, area of 02 dismal each respectively is of Sadanand & Harihar Singh. Learned advocate submitted that khata 366/244 plot No- 1999/1518 area-08 decimal is not a khatiyani

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land but it was received by Mahanand Singh as "Hukumnama" whose return "Jamabandi" exists as per return case No.-206/406/83/54-55. He said that Sitapati Devi has purchased the land from Arjun Singh s/o Mahanand Singh. He refuted the allegation of opposite party that Arjun Singh has sold more than his share as per khatiyani land. Learned advocate said that purchaser of land mentioned in schedule remained peacefully occupied and after her demise, applicant is occupying it as per partition among his own brothers which opposite parties can not claim it on basis of joint family property. So learned advocate pleaded for declaration of right and direction to opposite party for non-interference in said land. Further, also pleaded for measurement & demarcation of said land and if found to be dispossessed then that area should be restored to applicant.

Learned advocate of opposite party submitted the Geneological Table of the family. He said that ancestor of both the parties were phulchand Mahto who had three sons namely Matukdhari Mahto, Kailash Mahto & Chanddeep Mahto (issueless). However, Matukdhari had one son namely Harihar Singh who in turn had four sons namely Madan Prasad Verma, Pramod Prasad Verma, Dinesh Prasad Verma & Manikant Bhushan (opposite party 01), Sumeet Kumar s/o Dinesh Prasad (opposite party 02) And Gautam Kumar S/o Pramod Prasad (opposite party 03).

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However, Kailash Mahto had two sons namely Sada Nand Singh & Maha Nand. The Sada Nand Singh has five sons namely Shatrudhan Singh, Basant Singh, Yashwant Singh (applicant), Sumant Singh & Subhash Singh where as Maha Nand Singh has one namely Arjun Singh (the vendor of applicant's mother). The learned advocate further submitted that in khata 336/137 plot No.- 2000/1480/1816 area 04 dismal is joint property of Matukdhari & Kaliash. He informed that as per khatian total area of land is 11 decimal and as per partition descendents of Matukdhari will receive $2\frac{3}{4}$ dismal where as descendents of Kailash Mahto will also received $02\frac{3}{4}$ dismal which is to be divided into Maha Nand & Sada Nand. So Arjun Singh, the vendor of applicant has sold 08 dismal which is more than his share. Further, in khata 336/244 plot No.- 1999/1518 Area 08 dismal is also disputed as ancestor both the parties had received area of 08 dismal, accordingly Sada Nand & Maha Nand received area of 04 dismal each, here too Arjun Singh has sold more than his share. However, applicant has wrongly filed the case in relation to this land. Learned advocate said that applicant has wrongly mentioned the boundary of disputed land in plaint as in kewalas, different boundaries are shown. He questioned that land was never mutated in name of Arjun Singh, so how it was mutated in name of Sita Pati Devi, the mother of

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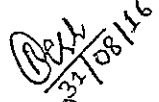
applicant. Learned advocate further questioned, whether applicant has filed the case in his own or on behalf of all his five brothers, is not clear in plaint. If applicant has filed the case in his own then he can claim over only one fifth of this land. Further, if applicant's vender has received less land than as per transfer of property Act, purchaser should file case in civil court against the vender. Learned advocate has opposed the relief sought by applicant as measurement can not be done due to wrong boundaries given in plaint which doesn't match with kewala. Further, land's right can not be declared as applicant has no title over the disputed land. Learned advocate mentions in para-08 of written argument that opposite parties has neither encroached the disputed land nor claims that land as whole land of family is disputed because of unequal share received by family members. So the dispute of the this case is related to civil nature which can not be decided under BLDR Act 4 (5). So the case is fit to be dismissed.

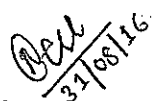
Heard the learned advocate of both the parties & perused the document available on record. Applicant has submitted kewala, revenue receipts, khatiyani where as opposite party has submitted revenue receipts & documents related to "Chakbandi" which is not final. So after looking the arguments & documents, it seems that opposite party is not claiming the disputed land but has questioned the shares of

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members of joint family property as both the parties are distant cousins. Further, questions raised by opposite party that whether applicant has filed the case in behalf of his own brothers, or on his own has not been answered by applicant. In addition to it the opposite parties claim that dispute is of civil nature which can not be resolved in this court. So this court agrees with this argument of opposite party that issues raised is related to partition and land mentioned in Kewala of applicant's mother has share of all five brothers but they are not party in this case. Further, revenue receipts submitted by applicant doesn't show the disputed khata as per Kewala. So the possession of applicant in disputed land is doubtful. So this court can not give any relief to applicant. He may seek remedy in competent court.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.