

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. 123/ 2012-13</u> Kamlesh kumar sharma- applicant Vrs. Shyam Narain prasad- opposite parties Present- Rakesh Kumar, DCLR <u>Learned Advocate of applicant</u> 1. Sri Om prakash Sharma. 2. Sri . Anil Sharma. 3. Sri. Arvind Kumar. <u>Learned Advocate of opposite parties</u> 1. Sri. Shailesh Sharma. 2. Smt. Rukmini kumari. <u>Learned Advocate on behalf of intervener</u> 1. Sri. Binod Kumar.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>All the parties appeared in this case. The present case is related to</p> <p style="text-align: center;">Schedule</p> <table border="1" data-bbox="347 1205 1326 1480"> <thead> <tr> <th>Khata</th> <th>Khesra</th> <th>Area</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td>B -K- D- D</td> <td></td> </tr> <tr> <td>53</td> <td>1771</td> <td>01-01-12-10</td> <td>N- Kedar Nath Mehta. S- Ramashish Mishtri. E- Ram Laddu Sao. W- Sarak.</td> </tr> </tbody> </table> <p>Mauza- Shahar Telpa, P.S.+ Anchal- Karpi, Dist-Arwal.</p> <p>The learned advocate of applicant submitted that applicant lives out of village for his livelihood. However, disputed land was purchased by his father namely Rameshwar Mishtri through kewala No 14993 dated 11.09.1971, accordingly land was mutated and revenue is paid by them to govt. Learned advocate further</p>	Khata	Khesra	Area	Boundary			B -K- D- D		53	1771	01-01-12-10	N- Kedar Nath Mehta. S- Ramashish Mishtri. E- Ram Laddu Sao. W- Sarak.	
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stated that opposite party is aggressive in nature and by taking advantage of applicant's absence he tried to do construction work in land of applicant. When applicant's family member tried to stop him then he threatened and used filthy language. Learned advocate informed that proceeding u/s 144 of crpc was started in case No 912/2012 and he alleged that inspite of receiving notices opposite party continued construction work, so proceeding u/s 188 of crpc was initiated against opposite party. He also informed that opposite party is witness in his kewala and finally learned advocate pleaded for measurement & demarcation of the disputed land and if dispossession is found, by opposite party then that should be restored to applicant.

The learned advocate of opposite parties submitted that disputed land including other area's owner was Late Deo Narain singh who had distributed land to three persons namely Late Radheshwar singh, Late Jagdish Narain singh & Late Braj kishor singh. Learned advocate narrated that Late Jagdish Narain singh had received 07'Ana of land in year 04.03.1976 who deed kewala to kanhaiya Dayal singh @ Lallan singh comprising an area of 07 Bigha who in turn registered an area of 03 Bigha 01 katha of land to kaushilya Devi who there after became Zamindar and orally became an owner of areas towards southern-western portion of plot. However, she gave

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Hukumnama to praduman Narain singh s/o Late Ram vriksha of Mahjhiyama. so learned advocate denied the right of applicant and stated that in boundary name of opposite party has is not mentioned in plaint, moreover opposite party lives in land of Late Radhey shyam singh where different varieties of trees exists and cultivation in being done by opposite party. Learned advocate mentions the name of 14 persons and alleged that they are also eying the disputed land. so they should be made party, so that permanent solution can be found at spot.

Learned advocate of internvener namely siya Ram Sharma s/o praduman narain singh had pleaded for allowing his client to present his point of view but he didn't file written statement.

So after looking the aspects of concerning parties then DCLR had directed learned advocate commissioner Sri Vashishtha Narain to measure & demarcate the disputed area. Learned advocate commissioner submitted the report on 16.12.2013 and later opposite party objected the report and wanted a Board for measurement which was done and accordingly the Board members namely advocate commissioner Sri Prabhash Chandra Maharaj, Sri Basishta Narain & Anchal Amin Arwal Sri Ravi Shanker Sinha submitted report on 16.06.2016 to this office, so the opposite party filed petition to have an order from this court based on measurement report of Board. After

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looking the documents and both the measurement report, it is found that in first report of advocate commissioner, applicant's area is short of 39478 square kurry. Learned advocate commissioner reports that from south to North an area of 72 kurry x 510 kurry was found in possession of opposite party and no document related to it was submitted by opposite party. However, in measurement report of board, it is mentioned that opposite party has not been found to be encroacher of land of applicant. Thus, report of the board contradicts the earlier measurement report, submitted by the learned advocate commissioner, Sri Vashishtha Narain though he is also a member of the board. So report of board is not convincing, in fact documents strengthens the view heard on grapevine that members of the board has prepared the report in collusion with opposite party. It is also alleged that members of board during course of measurement, had lunch & siesta at the residence of opposite party. Further, it is fact that opposite party is strong in land & money power in comparison to applicant in mentioned village. So this court can not pass any order based on report of the board, as applicant is short of large areas of land. So it directs circle officer karpi to remeasure the land in his leadership through Anchal Amin by in forming concerning parties who can also have their own private Amin on date of measurement. There after, based on that report circle officer is being directed to pass

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reasoned order which is to be abided by all concerning parties. Further, circle officer, karpi is directed to send a copy of the remeasurement report to under signed, so that if discrepancies are found then leagal action has to be taken against the members of the board especially Anchal Amin, Arwal who has possibly signed the report at the instigation of opposite party. Finally, claim of opposite party to have relief based on measurement report of board is rejected and both the parties are directed to report to circle officer karpi for further necessary action as per direction given by this court.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal

