

आदेश की क्रम संख्या और तारीख	<b>आदेश और पदाधिकारी का हस्ताक्षर</b>	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ								
20-07-2016	<p style="text-align: center;"><b>In The Court Of: Land Reforms Deputy Collector, Arwal.</b>  <b>Case No. 113/ 2015-16</b>  Satya Narain Singh - applicant  Vrs.  Manjur. Ahmad –opposite party  Present- Rakesh Kumar, DCLR  <u>Learned Advocate of applicant</u>  1. Sri. Bhairav Dayal Ram.  <u>Learned Advocate of opposite parties</u>  1. Sri. Binod kumar singh.</p> <p style="text-align: center;"><b>ORDER</b></p> <p>Both the parties appeared at the time of hearing. The present case is related to</p> <p style="text-align: center;"><b>Schedule</b></p> <table border="1" data-bbox="316 996 1300 1339"> <thead> <tr> <th>Khata</th> <th>Khesra</th> <th>Area A- D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>36</td> <td>194</td> <td>0-3<math>\frac{1}{8}</math> (i.e. 1 kattha)</td> <td>N-Sarak. S- Niz. E- Niz. W-Govardhan singh.</td> </tr> </tbody> </table> <p>Mauza- Belsar, P.S.-Mehandiya, Anchal-Kaler, Dist- Arwal.  Learned advocate of applicant submitted that land mentioned in schedule was purchased by applicant from Md Quazim khan &amp; Md Quasim khan s/o Late Amirudhin khan &amp; Md Tarique Anwar s/o Md Hasion khan through kewala No-4277 dated 29.10.1996 and accordingly they came into possession of said land, so land was also mutated and applicant is paying rent to govt. Learned advocate has given Geneological</p>	Khata	Khesra	Area A- D	Boundary	36	194	0-3 $\frac{1}{8}$ (i.e. 1 kattha)	N-Sarak. S- Niz. E- Niz. W-Govardhan singh.	
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Table of the vendor and said that their ancestor was Taquir Ahmad and he had one son namely Late Amiruddin khan who in turn has three sons namely Md. Hasim khan, Md. Quazim khan (vendor), Md. Quasim khan (vendor). However, Md Hasim khan's son is Md. Tarique Anwar (vendor). Learned advocate alleged that opposite party namely Md. Manzur Ahmad s/o subedar Ahmad along with ten goons laced with arms tried to capture the land mentioned in schedule, so he wants measurement for demarcating his areas of land. Learned advocate has also submitted written arguments and has refuted the claim of opposite party that applicants are unauthorized purchasers and said that his vendor had received the said land through partition among brothers as disputed land is gifted property in name of their Mother which is mentioned in schedule and it came as share to Bibi Fatima, the Mother of vendors. So learned advocate pleaded for measurement and demarcation of his land.

The learned advocate of opposite party submitted that land mentioned in schedule along with others plots of land, originally belongs to Hazi Imdad Hussain. This person executed a registered deed of gift (Tamaliknama) dated 10.04.1935 to his eight daughters namely Khudaija, Salma, Fatma, Ashma, Samsha, Nuraima, Nazma and Hazra with respect to 5.27 Acres of land at Mauza- kaler, 97 decimal at

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Belsar and 1.40 Acres at Mauza- Belawn, total area is 07.64 Acres, including land in question. Learned advocate said that vendor of applicant is progeny of Bibi Fatma and she was alive on the day, disputed land was registered to applicant. Learned advocate informed that P.S. No. 162/96 was filed with relief of annulling sale deeds as well as for partition of joint family property. The suit was decreed on 30.04.2003 by which entire property under gift was held to be joint and there fore, applicant's suit for partition was decreed to extent of their share. Learned advocate said that any transaction of said land is contrary to decree of competent court of law. Learned advocate also informed that subsequently donees of said land, partitioned the land mentioned in schedule of plaint along with other lands which came into share of salma khaton, the mother of Manzoor Ahmad (opposite party) which has never been challenged by any co-sharer or any alleged purchaser. Learned advocate also stated that on basis of "khangri" partition, Mutation has been done in circle office, kaler and salma khaton has paid the rent upto year 2012-2013. Learned advocate has also submitted boundary of his land, according to which in North is House of Dwarika singh, south- sanjay singh, East- Boundary wall has been put by opposite party, and entire land opens to wards west over P.W.D. Road. Learned advocate argued that mohomedan Law of inheritance opens after death

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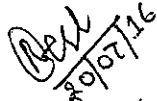
of owner. The owners of the undivided property were eight daughters including Bibi Fatma. Further, in life time of Bibi Fatima, her sons and grand sons had no right in her property per section 31, 41 of Mahomedan Law. so the vendor of applicant had no right to sale the land. Learned advocate is of view that case involves complex question of adjudication of title which is beyond jurisdiction of this court to resolve the issue. Learned advocate has also submitted written argument and states that opposite party is retired professor aged 73 yrs & resides at Jamshedpur (Tata), Jharkhand so applicant is bent upon to harass him, so learned advocate pleads for rejection of claim and dismissal of the case.

Heard the learned advocates of both the parties & perused the documents available on record. Applicant has submitted kewala, where as opposite party has submitted photocopy of gift deed, Judgement & decree of P.S. No-162/96, photocopy of memo of partition dated 05.07.2009, photocopy of rent receipt, photo copy of relevant rules as annexure, After looking all aspects it seems that right of vendor of applicants to transfer the land can not be given during life time of their Mother as applicants could not prove that vendor's Mother, expired prior to date of registration as opposite party has claimed that Bibi Fatima, was alive. Further, opposite party claims that disputed land along with other land

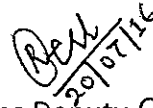
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came into share of his mother namely Bibi salma khatoon. so over all, it seems that opposite party has rightly stated that issues involved in this case is complex and it is beyond jurisdiction of this court to resolve. So this court can not give any direction for measurement & demarcation of land mentioned in schedule as per wish of applicant. so the claim of applicant is rejected and case is dismissed.

Dictated and corrected

  
20/07/16

Land Reforms Deputy Collector  
Arwal

  
20/07/16

Land Reforms Deputy Collector  
Arwal.

