

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ								
14-08-2018	<p style="text-align: center;"><b>In The Court Of: Land Reforms Deputy Collector, Arwal.</b>  <b>Case No. 24/ 2018-2019</b>  Narain Mishra- applicant  Vrs.  Ajay Prasad &amp; others- opposite parties  Present- Rakesh Kumar, DCLR.  <u>Learned Advocate of applicant</u>  1. Md. Afsar Hamid .  <u>Learned Advocate of opposite parties</u>  1. Sri. Anil Sharma.</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="255 1041 1324 1321"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Rakwa A- D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>143</td> <td>1493</td> <td>0-08</td> <td>N-Venketesh Sharma. S-Vikas Singh. E-OP. W-Arun Singh.</td> </tr> </tbody> </table> <p style="text-align: center;"><b>Mauza-Sachai, P.S.-Kurtha, Dist-Arwal</b></p> <p>Learned advocate submitted that land mentioned in schedule is khatiyani raiyati land of applicant. He claimed that as per old khatiyani (C.S.) land of khata-143 is in name of Balkeshwar Mishra and this khata has 11 plots (Khesra) including disputed one and total areas of all plots is 2.25 Acres. He said that Balkeshwar Mishra had two sons namely Kanhaiya Mishra &amp; Salik Gram. Mishra &amp; this Kanhaiya Mishra has two sons namely Narain Mishra (applicant) &amp;</p>	Khata	Plot	Rakwa A- D	Boundary	143	1493	0-08	N-Venketesh Sharma. S-Vikas Singh. E-OP. W-Arun Singh.	
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Ramashanker Mishra. Learned advocate said that after demise of Balkeshwar Mishra his two sons partitioned their Joint family property & later after demise of Kanhaiya Mishra, his two sons including applicant partitioned their property and disputed land came into share of applicant. Learned advocate informed that out of 08 desimals applicant had received 04 desimals from southern side & his brother received equally in Northern side. However, applicant purchased the area of 04 desimals of Northern side from his brother Ramashanker Mishra through kewala dated 02.12.1999. However, he alleged that applicant's eastern boundary persons namely Ajay Prasad (op-01), Vijay Prasad (op-02) both S/O Late Mohan Prasad Singh & Sidheshwar Prasad Singh alias Siddhi Singh S/O Bengali Singh has illegally dispossessed the applicant. He informed that a measurement case No-04/16-17 was filed in circle office kurtha and accordingly measurement report was submitted to office and these op's never filed any appeal against that report. However, op's has made their mind to make construction on encroached land of applicant and it may lead to bloodshed at spot. Learned advocate while arguing in court said that op's are adamant for not obeying co's report as they could not turn up on day of measurement. So learned advocate pleaded for measurement by this court in front of both the parties. If dispossession is found then it should be restored to applicant.

Learned advocate of opposite parties submitted that in schedule land of plaint, applicant claims dispute over 08 desimals but in disputed land applicant's remaining area is

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04 desimals only. He agreed that applicant had purchased 04 desimals of land from his elder brother and this together area of land was 08 desimals. However in due course, he sold 04 desimals of land to co-villager Vikas Kumar. This Vikas has constructed one room on that land and has also planted few trees and this Vikas has not been made party in this case. He refuted the allegation of applicant that any encroachment has been made by op's in land of applicant & said that op's are unaware about any measurement done by circle office, Kurtha. Learned advocate informed that in khata-231, khesra-1494, Rakwa- $3\frac{1}{4}$  desimals was purchased by Late Mohan Prasad Singh (the F/O Ajay Prasad & Vinay Prasad) from Mohan Maharaj through registered kewala dated 02.06.1954. He also informed that on  $\frac{1}{2}$  of this area of land, op's has residential house and they have been residing it since last 30 yrs and in remaining half of area, op's has planted trees & has Tube well. Learned advocate while arguing in court said that op's as well as Vikas Kumar the purchaser of applicant's land are working out of village. Further, if applicant corrects the area of plaint, then boundary persons will get changed as per spot. So learned advocate pleaded for rejection of relief & dismissal of the case.

Heard the learned advocates & perused the documents. Learned advocate of applicant has submitted photo copies of khatian, rent receipts, measurement report, kewala where as op's has submitted photocopies of kewalas, rent receipts & photo graph of existing site which includes op's

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residential complex & courtyard. After looking these documents, it seems that plaint of applicant is incorrect in relation to disputed area. Further, applicant didn't mention about his sold area of land in plaint though he accepted in court. So it seems there was communication gap between client & advocate of applicant. So in this situation, this court can not give any relief to applicant. However, he can reapproach circle officer kurtha for remeasurement. The circle officer kurtha is being directed to get the disputed land of applicant remeasured after issuing proper notices to all concerning boundary persons and accordingly will pass speaking order.

Dictated and corrected

*Arwal*  
14/08/18

Land Reforms Deputy Collector  
Arwal

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14/08/18

Land Reforms Deputy Collector  
Arwal.