

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ										
27-12-2018	<p style="text-align: center;">In The Court Of: Land Reforms Deputy Collector, Arwal. Case No. 37/2017-2018 Ram Barat Nishad- applicant Vrs. Shambhu Nishad & others- opposite parties Present- Rakesh Kumar, DCLR <u>Learned Advocate of applicant</u> 1. Sri . Ram Govind Singh. <u>Learned Advocate of opposite parties</u> 1. Sri. Girja Nandan Singh.</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> <p style="text-align: center;">Schedule</p> <table border="1" data-bbox="288 976 1307 1279"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Rakwa A- D</th> <th>Kita</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>194</td> <td>874</td> <td>0-12$\frac{1}{2}$ (purab Taraf se 02 desimal par vivad)</td> <td>Nahar se Paschim</td> <td>N-Avadh Singh. S-Mahavir Mallah. E-Nahar chart. W-Mokir Alaihum.</td> </tr> </tbody> </table> <p>Mauza-Aganour, P.S.+ Anchal-Kaler, Dist-Arwal</p> <p>The learned advocate of applicant submitted that land mentioned in schedule was purchased by applicant through registered kewala No-4060 dated 14.10.1996 from Md. Tahir Hussain & Noor Ahmad both S/o Md Islam Miyan of village-Agnour of ps+Anchal-kaler. Learned advocate further submitted that after purchase of land, applicant was in its peaceful possession but alleged that recently Shambhu Nishad (op-01), Surendra Nishad (op-02) & Kamlesh Nishad</p>	Khata	Plot	Rakwa A- D	Kita	Boundary	194	874	0-12 $\frac{1}{2}$ (purab Taraf se 02 desimal par vivad)	Nahar se Paschim	N-Avadh Singh. S-Mahavir Mallah. E-Nahar chart. W-Mokir Alaihum.	
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(op-03) all S/o Late Rampati Nishad tried to dug a pit with an intention to erect wall in part of purchased land of applicant as mentioned in schedule. He said that applicant tried his best to persuade the op's against their act but in vein, so applicant approached SHO who put an injunction at spot. Learned advocate said that situation at spot is volatile, so pleaded for measurement & demarcation of land, if dispossession is found then it should be restored to him.

Learned advocate of opposite parties submitted that op's residential house is road chart land, infact their ancestors were poor landless. So they physically filled the ditch existing at spot and constructed two room house by erecting Brick wall. Further, in Northern side of defendant's house, there is road chart land and in its middle portion there is courtyard which in local dialect is called "Sahan" and it used to keep seasonal crops. Learned advocate alleged that applicant is dishonest person who has greedy eye on this Road chart land on which op's family has been residing since time immemorial. He refuted the allegation of applicant that op's were digging any pit on land of applicants. Learned advocate writes that case is not maintainable as no cause of action is mentioned and it is barred by estoppels, waiver, acquiescence & limitation and finally pleaded for dismissal of the case.

Heard the learned advocates of applicant & read the written statement of op. Applicant has submitted photocopy of kewala where as op has submitted a photocopy of a letter written on pad of sarpanch, Gram kutchhary Dakshini kaler who certifies that Urmila Kunwar

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W/o Late Sharvan Kunwar of village-Aganoor is a landless lady. Further, a report from SHO kaler is available to this court and as per this report, op's family has been residing on chart land near by canal on Govt land of irrigation department last 60-70 yrs and they are landless. So as per version of local public, police report says that applicant of this case doesn't have any problem with residing land of op's but he wants to remove them for the straight road which will directly lead to canal. So after looking all these documents it can be said that disputed land can be measured & demarcated. However, if measurement report confirms the facts mentioned by opposite parties then their area of land may be settled to then as per provision of Government Act. Thus, learned survey knowing advocate commissioner Sri. Bashishtha Narayan was appointed for measuring & demarcating the disputed land and he submitted the report to this court 30.11.2018. Further, on this report, concerning parties were given opportunity to express their views but no application was received about it. So measurement report was perused and it was found to be as follows-

(1) Applicant's possession in plot No-874

270 kurry (N) from W to E +280 kurry (S) = 550 kurry
 Average = 275 kurry. 80 kurry (W) from N to S + 80 kurry (E)
 = 160 kurry, Average = 80 kurry. Total area=275 X 80 =
 22000 square kurry i.e. 22 desimals.

However, measurement report mentions as per version of applicant that in this plot more area is in possession because applicant had received land from other share holders.

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However, present suit land comprises his purchased area of land only.

Measurement report mentions dispossession by opposite party in land of applicant, which is as follows:-
part area of North side 05 kurry (W to E) + Southern side 10 kurry = 15 kurry Average = $7\frac{1}{2}$ kurry. 80 kurry long N to S which means $80 \text{ kurry} \times 7\frac{1}{2} = 600 \text{ square kurry}$.

So the area of 600 square kurry land of applicant has been dispossessed by opposite party.

Here, it is also found that op's are residing on Government land but they are yet to be settled. So in this situation, circle officer kaler is being directed to visit the spot and if feasible then Govt land in possession of op should be settled & an alternative passage for applicants to reach on road & canal should also be found at spot otherwise alternative area of land can also given to op for settlement However after verification of documents, dispossessed area of 600 kurry should be restored to applicant as it is in his purchased area.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.