

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-20429-2022 (O&M)
Date of Decision: 22.09.2022**

SANTOSH AND OTHERS

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Mayank Sharma, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. AG, Haryana.

LISA GILL, J.

Petitioners being aggrieved seek quashing of mutation entry dated 22.09.1961 (Annexure P-4), order dated 07.01.2022, passed by the learned Assistant Commissioner, Ist Grade, Badhda (Annexure P-5) and order dated 12.10.2021, passed by the learned Divisional Commissioner, Rohtak (Annexure P-6).

Learned counsel for the petitioners submits that application filed by the petitioners under the Haryana Dholidar, Butimar, Bhondedar and Muqararidar (Vesting of Proprietary Rights) Act, 2010 (hereinafter referred to as 'the Dholidar Act 2010'), for deposit of the price in question and transfer of ownership rights in respect to the property/land as detailed in their application was wrongly dismissed by the learned Assistant Collector Ist Grade, Badhda, Exercising the powers of Collector, vide impugned order dated 07.01.2020 (Annexure P-5) in an absolutely illegal and erroneous manner, merely on the basis of a Bill seeking the amendment in the Act 2010. It is submitted that appeal preferred by the petitioners was also

dismissed by the learned Divisional Commissioner, Rohtak Division, Rohtak vide order dated 12.10.2021 (Annexure P-6) without any application of mind or taking into consideration the fact that amendment in the said Dholidar Act, 2010 had not been carried out at that point of time, therefore, the entire premise/foundation of passing of the impugned orders is incorrect.

It is to be noted at this stage that the State Legislature has sought to amend the Dholidar Act, 2010 by substituting sub-Section (4) of Section 1 thereof. Section 1(4) of Act, 2010 read as under:-

“This Act shall be applicable to Dohlidar, Butimar, Bhondedar, Muqararidar or any other similar class or category of persons which the State Government may notify in the Official Gazette.”

The said provision was sought to be substituted as under:-

“This Act shall be applicable to Dholidar, Butimar, Bhondedar, Muqararidar or any other similar class or category of persons of land belonging to private individual/entity which the State Government may notify in the Official Gazette and shall not be applicable to land owned or deemed to have been vested in the Panchayat or Municipality or land owned by any Government Department, Board or Corporation.”

The Amendment Bill, 2018 was promulgated and the requisite notification in the Official Gazette in this respect was issued on 23.08.2022 after receipt of assent of the President of India on 20.07.2022.

Learned counsel for the State, who had been afforded time in this matter to seek instructions, is unable to deny that at the time of passing of impugned orders, amendment in the Act had in effect not been carried

out. Notification in this regard was issued on 23.08.2022. Learned counsel for the State is further unable to deny that in this view of the matter impugned orders which have been passed on the basis of the alleged amendment, which was not notified at that stage, are un-sustainable.

Accordingly, impugned orders dated 07.01.2022 (Annexure P-5) and 12.10.2021, (Annexure P-6) are set aside and the matter is remanded to the learned Assistant Commissioner, Ist Grade, Badhda, to decide the same afresh, in accordance with law.

Writ petition is accordingly disposed of.

It is clarified that there is no expression of opinion on the merits of the matter.

(LISA GILL)
JUDGE

(HARSH BUNGER)
JUDGE

22.09.2022
Sunil

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No