

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

**CM-14912-CWP-2022 in/and
CWP-21561-2020 (O&M)
Date of Decision: 22.09.2022**

KRISHAN

..... 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. Sushil Jain, Advocate
for the applicant-petitioner.

Mr. Raman Sharma, Addl. AG, Haryana.

LISA GILL, J.

At request and with consent of learned counsel for the parties
hearing of writ petition is preponed for today itself.

Prayer in this writ petition is for quashing 'notification' dated
08.09.2018 (Annexure P-11) and order dated 04.07.2019, passed by the
learned Collector-cum-Sub Divisional Officer (Civil), Gannaur (Annexure
P-12), whereby application filed by petitioner for grant of ownership
rights/proprietary rights under the Haryana Dholidar, Butimar, Bhondedar
and Muqararidar (Vesting of Proprietary Rights) Act, 2010 (hereinafter
referred to as 'the Dholidar Act 2010'), has been dismissed on the basis of
letter dated 15.10.2018 (Annexure P-10) which is also sought to be set
aside.

Learned counsel for the petitioner submits that application filed by the petitioner under the Dholidar Act 2010, for transfer of ownership rights in respect to the land/property as detailed in their application dated 02.09.2011 (Annexure P-7) was wrongly dismissed by the learned Collector, Gannaur, vide impugned order dated 04.07.2019 (Annexure P-12) in an absolutely illegal and erroneous manner, merely on the basis of impugned letter dated 15.10.2018 (Annexure P-10). Learned counsel for the petitioner further submits that the respondent-authorities despite being apprised of order dated 20.09.2022 whereby status quo regarding possession as on the said date was directed to be maintained, have put a lock on the tubewell/kotha of the petitioner. It is thus prayed that impugned order dated 04.07.2019 be set aside and the lock illegally placed be removed.

Perusal of letter dated 15.10.2018 from Additional Chief Secretary & Financial Commissioner, Government of Haryana, Revenue & Disaster Management Department to all the Deputy Commissioners in the State, reveals that while referring to the Haryana Dholidar, Butimar, Bhondedar and Muqararidar (Vesting of Proprietary Rights) (Amendment), Bill 2018, seeking substitution of sub-Section (4) Section 1 of the Dholidar Act, 2010 information/details of land owned or deemed to have vested in the local bodies i.e. Panchayat Deh, Municipalities etc. and lands owned by any Government Department, Board or Corporation that have been vested in Dholidar, Butimar, Bhondedar and Muqararidar alongwith the copies of order, mutations sanctioned as well as further alienations if any, taken place till date has been sought. However, learned Collector vide impugned order dated 04.07.2019 while relying upon communication dated 15.10.2018 dismissed the application filed by the petitioner and others.

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 Dholidar Act, 2010 reads 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. It is a matter of record that the amendment was not notified on the date of passing of impugned order dated 04.07.2019.

Learned counsel for the State, is unable to deny that at the time of passing of order dated 04.07.2019, amendment in the Dholidar Act 2010 in effect had not been carried out. Notification in this regard was admittedly issued on 23.08.2022. Learned counsel for the State is unable to deny that in this view of the matter impugned order dated 04.07.2019, which has been passed on the basis of communication dated 15.10.2018 while referring to

an amendment which was concededly not notified at that stage, is unsustainable.

Accordingly, impugned order dated 04.07.2019 (Annexure P-12), is set aside and matter is remanded to the learned Collector-cum-Sub Divisional Officer (Civil), Gannaur, to decide the application dated 02.09.2011 afresh, in accordance with law. Needless to say, consequential action in respect to removal of lock, if any, on petitioner's premises shall be taken.

Liberty is afforded to the petitioner to challenge the amendment in question as notified on 23.08.2022 in accordance with law.

Writ petition is accordingly disposed of. Pending applications, if any are disposed of accordingly. 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