

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

CWP-3987-2024

Date of Decision: 22.02.2024

Jagdish

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Shilak Ram Hooda, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. This case has been emanated from the order dated 30.05.2023 (Annexure P-6) passed by the Financial Commissioner, Haryana and order dated 22.01.2021 (Annexure P-4) passed by the Commissioner, Rohtak Division, Rohtak, whereby, the order dated 01.10.2018 (Annexure P-2) passed by the Collector, was set aside and thus, the application filed by the petitioner under Section 3 of the Haryana Dohlidar, Butimar, Bhondedar and Muqararidar (Vesting of Property Rights) Act, 2010 (hereinafter after referred as “the Act”) praying for granting the ownership rights, was rejected.

2. Learned counsel for the petitioner has submitted that the petitioner filed an application dated 10.12.2014 declaring him as owner of the land comprised in Khewat No.505 min/480, Khatoni No.583, mustatil killa No.9/19/2(6-11), 20(8-0), 21(8-0), 22(7-12), 23(8-0), 10/16(8-0), 17(6-12), 25(7-15), 11/5/2(1-3), 12/1(6-0), 2(7-4), kite 11 total measuring 74 Kanal 17 Marla. It is contended that his father and predecessors-in-interest were recorded as Dohlidar of the land in dispute since long and thus, the petitioner had already become the owner of the aforesaid land. He has submitted that after hearing the petitioner, the learned Collector finding the

application filed to be justified under the Act accepted the same vide his order dated 01.10.2018 and thus, ordered the petitioner-Dohlidar to deposit Rs.500/- per acre in the Government treasury within a period of 60 days. He submits that aggrieved by the same, respondent No.4-Gram Panchayat assailed the same by way of filing an appeal before the learned Commissioner, Rohtak Division, Rohtak. He submits that learned Commissioner without appreciating the evidence on record and the statutory provisions, has illegally accepted the same and thus, set aside the well reasoned order passed by the Collector vide impugned order dated 22.01.2021. He has submitted that aggrieved by the same, the petitioner filed a revision petition under Section 8 of the Act for setting aside the order dated 22.01.2021 passed by the Divisional Commissioner before the Financial Commissioner. He submits that learned Financial Commissioner without appreciating the provisions of amended Act has illegally dismissed the revision petition filed by the petitioner vide impugned order dated 30.05.2023. It has been submitted by learned counsel for the petitioner that the predecessors-in-interest of the petitioner had become the owners of Dohli land because they were Dohlidar in absolute possession of the Dohli land much prior to the enactment of the Act, 2010. He submits that the amendment dated 15.10.2018 in this case is not applicable and thus, the petitioner could not be denied the right of ownership on the ground that amended Act dated 15.10.2018 would be applicable retrospectively w.e.f. 09.07.2011. He has submitted that fore-fathers of the petitioner being rightful owner of this Dohli land much prior to the enactment of the Act, were legally entitled to be declared as the owners of this land in accordance with the provisions of the Act. He has submitted that the Act could not be

applicable retrospectively and thus, the impugned orders passed by the Divisional Commissioner and the Financial Commissioner in setting aside the well reasoned order passed by the Collector, are totally unsustainable in the eyes of law and deserve to be set aside.

3. Heard.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the fore-fathers of the petitioner were recorded as Dohlidar of the land in dispute since long however, the Act was enacted in 2010. An application was filed under Section 3 of the Act for granting the petitioner ownership rights of this land in accordance with the statutory provisions of the Act. Learned Collector issued notice to the respondent-Gram Panchayat but as respondent-Gram Panchayat did not appear, hence, was proceeded *ex parte*. Resultantly, the application filed by the petitioner was accepted by the Collector vide his order dated 01.10.2018. Aggrieved by the same, the Gram Panchayat filed an appeal before the Divisional Commissioner, who after hearing both the sides found that the Act was amended vide amendment dated 15.10.2018 by virtue of which it was laid down that the Act would not be operative regarding the land under the ownership of local bodies like Panchayat, Municipal Council, Government Departments, Boards and Commissions. Thus, finding the impugned order passed by the Collector *ex parte* qua the respondent-Gram Panchayat in violation of the Act, the same was set aside and the appeal filed by the respondent-Gram Panchayat was accepted. Revision petition filed by the petitioner was also dismissed on this ground itself. It is evident that the amendment was made in the year 2018 which sought to amend the Act, 2010, received assent of the President of India on 20.07.2022 and Haryana

Act No.26 of 2022 was enacted according to which the Act of 2010 is not

applicable to the land owned or deemed to have been vested in the Panchayat or Municipality or land owned by any Government Department, Board, or Corporation and this amendment came into operation w.e.f. 09.07.2011. Thus, it is evident that the Collector had passed the order dated 01.10.2018 in violation to the provisions of the amended Act which clearly laid down that the Act would not be applicable to the Panchayat land. Thus, the appeal filed against the same was rightly dismissed by the Commissioner and further the Financial Commissioner rightly accepted the revision petition by upholding the order passed by the Commissioner.

5. Thus, this Court does not find any infirmity in the impugned orders passed by the Commissioner and the Financial Commissioner and hence, the petition being devoid of any merit is hereby dismissed.

22.02.2024

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No