



CWP-22882-2026

-1-

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

(115)

CWP-22882-2026

Date of Decision: - 05.08.2026

Kuldeep

....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM : HON'BLE MR. JUSTICE VIKAS BAHL
HON'BLE MR. JUSTICE SUBHAS MEHLA**

Present:- Mr. Sandeep Siwach, Advocate,
for Mr. Kuldeep Singh Siwach, Advocate,
for the petitioner.

Mr. Pradeep Prakash Chahar, Addl. A.G., Haryana.

VIKAS BAHL, J. (ORAL)

1. Present writ petition has been filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for setting aside the order dated 30.03.2026 (Annexure P-10) and demolition notice dated 22.06.2026 (Annexure P-9). A further prayer has been made in the writ petition for issuance of a writ in the nature of mandamus directing the respondents to consider the case of the petitioner under Section 5A(1A) of the Haryana Village Common Lands (Regulation) Act, 1961 (Annexure P-6) and the SOP for regularization of unauthorized constructed houses on shamlat land dated



CWP-22882-2026

-2-

07.04.2025 (Annexure P-7).

2. It is not disputed that the petitioner had earlier filed CWP-37688-2025, in which, the challenge was made to the notice dated 30.09.2025 as well as to the order dated 20.11.2025. The said writ petition came up for hearing on 19.12.2025 on which date the Co-ordinate Division Bench of this Court had passed the following order: -

*“1. Learned counsel for the petitioner submits that the petitioner, who is an **encroacher** on Panchayat land, be permitted to withdraw this petition with liberty to pursue his application dated 03.12.2025 (Annexure P-8) already filed by him to the respondent – Gram Panchayat, in terms of Section 5A (1A) of the Haryana Village Common Lands (Regulation) Act, 1961 (for short-1961 Act), seeking therein regularization of his unauthorized possession.*

2. Dismissed as withdrawn with liberty as prayed for.

*3. It is directed that the respondent – Gram Panchayat shall consider the petitioner's afore application within 03 weeks from today and **in case a recommendation is made by the respondent – Gram Panchayat** in favour of the petitioner, such recommendation shall be forwarded forthwith by the respondent–Gram Panchayat to the Deputy Commissioner, Fatehabad- respondent No.2 who shall take a decision thereupon within two months from the date of receipt of such favourable recommendation.*

4. Till a decision on the petitioner's afore-referred representation (Annexure P-8) is taken by respondent No.2, the petitioner's dispossession from the land in question shall remain stayed.

December 19, 2025”



CWP-22882-2026

-3-

A perusal of the above would show that apparently the petitioner had given up his challenge to the notice dated 30.09.2025 as well as to the subsequent order dated 20.11.2025 and had even admitted that he was an encroacher on panchayat land and the only limited prayer that was made on behalf of the petitioner was that after withdrawal of the writ petition, he be granted liberty to pursue his application dated 03.12.2025 (Annexure P-8) filed by him to the gram panchayat in terms of Section 5A(1A) of the Haryana Village Common Lands (Regulation) Act, 1961 (hereinafter to be referred as 'Act of 1961') seeking regularization of his unauthorized possession and only on the said limited aspect the Co-ordinate Division Bench of this Court had given the above-said direction.

3. It would be relevant to note that although a copy of the earlier writ petition i.e., CWP-37688-2025 has not been annexed along with the present writ petition, but the factum of challenge in the said writ petition to the notice dated 30.09.2025 as well as to the order dated 20.11.2025, on a pointed query raised by this Court, has been fairly admitted by the learned counsel for the petitioner. Further, the abovesaid was passed in the said writ petition on 19.12.2025 which is subsequent to the said notice and order. Thus, the petitioners are barred from laying challenge to the said notice and order.

4. The question that now remains to be answered is as to whether the order dated 30.03.2026 passed by the Competent Authority is legal and valid or not. A perusal of the order dated 30.03.2026 would



CWP-22882-2026

-4-

show that the application filed by the petitioner for purchase of the property of the panchayat, which he had admittedly encroached upon was dismissed for the following reasons: -

- (i) There was no proof that any construction was made by the petitioner prior to the year 2004 which is the first requirement in order to be considered for the purpose of regularization of illegal possession as per Section 5A(1A) of the Act of 1961.
- (ii) The gram panchayat vide resolution dated 13.03.2026 had rejected the case of the petitioner for regularization.
- (iii) The gram panchayat vide resolution No.03 dated 04.07.2024, which was prior to the application filed by the petitioner dated 03.12.2025, had already passed a resolution to construct Ambedkar Park on the land which was owned by the gram panchayat for the benefit of all.
- (iv) A perusal of the order dated 30.03.2026 would further show that even the Officer, who had passed the order, had inspected the spot and as per the record, the same had earlier been inspected by the Duty Magistrate and it was found that at the spot the petitioner had only constructed a boundary wall with brick and sand and there was no house constructed and the house of the petitioner was at another place.

5. Learned counsel for the petitioner has submitted that the impugned order dated 30.03.2026 has been passed without granting any



opportunity of hearing to the petitioner. It is further submitted that in view of the same, the said order deserves to be set aside as the same is in violation of the principles of natural justice.

6. The said argument deserves to be rejected for the following reasons.

7. A perusal of Section 5A(1A) of the Haryana Village Common Lands (Regulation) Act, 1961, more so, which provision has been inserted by virtue of an amendment made in the year 2024 and which is sought to be relied upon by the learned counsel for the petitioner does not give the petitioner any vested right to claim transfer of ownership of land which admittedly is in his unauthorized occupation. The said Section 5A(1A) of the Act of 1961 is reproduced hereinbelow:-

“4. After sub-section (1) of section 5A of the principal Act, the following sub-section shall be inserted, namely:-

“(1A) Notwithstanding anything contained in subsection (1), a Panchayat may, with the prior approval of the State Government, transfer its non-cultivable land in shamilat deh by sale to the inhabitant of the village who has constructed on or before the 31st March, 2004, a house or part thereof alongwith open space upto twenty five percent of the constructed area, both put together not exceeding five hundred square yards and not causing any obstruction to traffic and other public utilities and also not a land reserved for pond or any other water body or revenue rasta entered as such in revenue record, at the rate not less than the market rate, to be determined in such manner, as may be prescribed.””

A perusal of the above-said provision would show that the



same is an enabling provision, enabling the Panchayat, with the prior approval of the State Government, to transfer non-cultivable land in *shamilat deh* by sale to the inhabitants of the village under certain conditions. Further the above provision enables the sale to the inhabitant of the village only in case the construction has been made on or before 31.03.2004.

8. Since there is nothing on record to contradict the findings in the impugned order dated 30.03.2026 to the effect that there was no proof of any construction prior to 31.03.2004, thus, it cannot be said that the impugned order had been wrongly passed. A perusal of the order dated 19.12.2025 passed by the Co-ordinate Division Bench of this Court would show that no prayer was made by the petitioner for grant of personal hearing nor any such direction was given. Nothing has been highlighted on behalf of the petitioner, either from the Haryana Village Common Lands (Regulation) Amendment Act, 2024 or from the SOP or from the Act of 1961 to show that the petitioner was required to be given a personal hearing before the decision in question was to be taken. In fact, the procedure prescribed in the SOP (Annexure P-8) does not require any personal hearing to be granted to the applicant. As has been stated hereinabove, the said provision only gives an enabling power to the authorities and no vested right is given to the petitioner, who is admittedly an encroacher on the land of the gram panchayat. The reasons, which have been given in the impugned order dated 30.03.2026 and have been noticed herein-above, are valid reasons for rejection of the



CWP-22882-2026

-7-

application filed by the petitioner.

9. In view of the above, no ground is made out to interfere in the present writ petition, which is meritless and the same is accordingly dismissed.

(VIKAS BAHL)
JUDGE

(SUBHAS MEHLA)
JUDGE

August 05, 2026
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	Yes