



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

**RSA-1765-2011 (O&M)
Date of decision : 18.02.2025**

Shree Krishna Gaushala Charitable Trust ...Appellant

Vs.

**The Haryana Co-operative Joint
Farming Society Ltd. ...Respondent**

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.D. Bansal, Advocate
Mr. Jeevan Gautam, Advocate
for the appellant.

Ms. Vibha Tewari, AAG, Haryana.

Mr. Rajesh Sethi, Advocate
Mr. Anshuman Sethi, Advocate
Mr. Paramdeep Singh, Advocate
Ms. Kanika Sachdeva, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. The defendant assails the correctness of concurrent findings of fact arrived at by the Courts below while decreeing the plaintiff's suit for possession.

2. The plaintiff is the owner of the land comprised in rectangle No. 113 Khasra No.18 by virtue of a sale deed 12.07.1996, whereas, the defendant is the owner of property of the land comprised in rectangle No. 113 Khasra No. 19 by virtue of a gift deed. The properties of plaintiff and defendant abut each other. The plaintiff got the demarcation of the property through a revenue official. It was found that the defendant encroached upon 01 kanal and 08 marlas land out of the land comprised in rectangle No. 118 khasra



No.18. Thus, the plaintiff filed a suit for possession, which was contested by the defendant. Both the Courts decreed the suit.

3. In regular second appeal, the Court on 26.01.2018 passed the following order:-

“The present appeal has arisen out of the decision rendered by the Courts below in a suit for possession filed by the respondent-plaintiff in respect of land measuring 1K-8M out of 7K-13M being owned by the respondent-plaintiff on the ground that the appellant-defendant has encroached upon 1K-8M. The defendant though had taken the plea of adverse possession, but the gift deed shows that he is owner of the property measuring 8 kanals. The genesis of the suit had been based on demarcation report dated 11.2.1999 (Ex.P1) proved by PW-2 in a suit instituted on 2.4.1999. Learned counsel for the appellant submits that land measuring 8 kanals relates to khasra No.113/19 and does not fall in khasra No.113/18.

I have gone through the report of the demarcator-PW2 Devi Dass Kanungo. It does not reflect that there had been compliance of the provisions of High Courts Rules and Orders, much less any opportunity given to the appellant-defendant for the purpose of measurement.

For the purpose of adjudication of the lis, I deem it appropriate to direct the Deputy Commissioner, Panchkula to appoint any revenue official for demarcation of the area as per the sale deed of the respondent-plaintiff and the gift deed of the appellant-defendant together, which will be given to the revenue officials, to be appointed by the Deputy Commissioner, by the parties and conduct the demarcation in their presence and submit the report within a period of one month.

Adjourned to 17.4.2018.



The parties are at liberty to show all the documents which are part and parcel of the records of the Courts below for the purpose of measurement in respect of the land as alleged by them.”

4. Fresh demarcation has been carried out in compliance with the above noted order and it has been again found that the defendant has encroached upon 01 kanal 08 marlas of the plaintiff's property.
5. Learned counsel representing the appellant submits that demarcation was carried out in absence of representative of the appellant without any notice.
6. This Court has perused the report. At page 6 of the report, it has been reported that the appellant was willfully absent at the time of demarcation. The appellant claims to be running a Gaushala at the spot. Their officials are supposed to be present. Moreover, the Government official who carried out demarcation has stated that the notice was given to the appellant.
7. The Court directed fresh demarcation in the presence of the appellant.
8. Keeping in view the aforesaid facts, no ground to interfere is made out.
9. The appeal is dismissed.
10. All the pending miscellaneous applications, if any, are also disposed of.

18.02.2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No