



RSA-2366-1994 (O&M)

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

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**RSA-2366-1994 (O&M)
Reserved on:-15.09.2025
Date of Decision : 16.09.2025**

State of Haryana

....Appellant

VERSUS

The Delhi Pinjra Pole Society

....Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Vaibhav Sharma, AAG Haryana
For the appellant.

Mr. A.K.Chopra, Sr. Advocate with
Mr. Vidul Kapoor and Mr. Adarsh Jain, Advocate
For the respondents.

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MANDEEP PANNU,J.

1. The present Regular Second Appeal has been filed by the appellant—State of Haryana, assailing the concurrent findings recorded by the Courts below whereby the suit instituted by the respondent—plaintiff, namely the Delhi Pinjara Pole Society (Registered Gaushala), has been decreed in its favour and against the defendant—State.

Brief Facts

2. The brief facts, as borne out from the pleadings of the parties, are that the plaintiff—society instituted a suit for declaration with consequential relief of permanent injunction, seeking a declaration to the effect that it is the owner in possession of the land situated in village Chhainsa Walipur Dulehpur and village Rakanpur, Tehsil Ballabhgarh, District Faridabad, as fully detailed in the plaint,

**RSA-2366-1994 (O&M)****-2-**

and further that the defendant–State be restrained from dispossessing it therefrom or from allotting the same to any other person. It was pleaded that the plaintiff is a registered body, commonly known as a Gaushala, and its Secretary at the relevant time was Shri Padam Chand. The society, it was averred, has been established for breeding pedigree cows and to provide shelter to old and infirm cattle. It stands registered with the Central Council of Gosarveardhana, Government of India, and also with the Delhi Gaushala Sangh, Kishanganj, Delhi. According to the plaintiff, the society has been in existence for more than a hundred years and is the owner in possession of land measuring 1363 kanals 9 marlas situated in the aforesaid villages, as reflected in the Jamabandis for the years 1975–76, 1977–78 and 1978–79.

3. It was further pleaded that the land in question had originally been purchased by the office bearers of the society, namely Shiv Shankar Das and Bishan Saroop, from Mrs. Victoria Angram through a registered sale deed dated 08.03.1913, but the purchase was always for the benefit of the society and never in their individual capacity. The society alone has been in possession and management of the land, either directly or through its tenants, and has continuously utilised the income thereof for the purposes of the Gaushala. The provisions of the Haryana Ceiling of Land Holdings Act, 1972 (hereinafter referred to as, ‘the Act’) were stated to be inapplicable since the land is neither held nor owned by an individual, but belongs to a religious and charitable institution, thereby being exempted under Section 5 of the said Act. The society alleged that the Assistant Collector, First Grade, Ballabgarh, issued a notice dated 02.05.1988, declaring 375 acres of its land surplus under Section 12(3) of the Haryana Ceiling on Land Holdings Act. The said notice, according to the plaintiff, was illegal and without

**RSA-2366-1994 (O&M)****-3-**

jurisdiction, for no land belonging to a Gaushala could be declared surplus. A similar notice issued earlier in 1981 in respect of the same land had, upon representation, been withdrawn by the authorities. Despite being in continuous possession and despite the fact that income was being devoted to maintain over 250 cows in the Gaushala at Kishanganj, Delhi, and about 150 cows at its agricultural farm in village Chhainsa, the authorities again initiated proceedings and even sought to effect a change of ownership and sanction mutation of 375 acres in favour of the defendant–State. The said action, being arbitrary and illegal, constrained the plaintiff to approach the Civil Court.

4. Upon notice, the defendant–State appeared and contested the claim by filing a written statement. It was denied that the plaintiff was owner in possession of the land in dispute. The stand of the State was that land measuring 375 acres had already been declared surplus by the Collector Agrarian, Palwal, vide order dated 29.11.1963 under Section 10-A of the Punjab Security of Land Tenures Act, 1953, and consequently vested in the State of Haryana, which has been in ownership and possession ever since. It was asserted that the previous owner of the land was one Shri Shiv Shankar, son of Jawala Parshad, resident of Delhi, and it was his holding which had been declared surplus on 29.11.1963. Neither the plaintiff–society nor any other person acquired any title or right thereafter. If at all the plaintiff–society was in possession, the same was illegal and unauthorized, amounting merely to possession as a tress-passer.

5. The defendant–State further pleaded that although some restrictions had initially been imposed upon the utilisation of the land, the same were lifted by the Financial Commissioner, Haryana, vide letter dated 22.01.1968. In the revenue records, the plaintiff–society was shown as being in possession through Shiv

**RSA-2366-1994 (O&M)**

-4-

Shankar, and therefore the case fell within the ambit of Section 5-A of the Haryana Ceiling on Land Holdings Act, 1972, disentitling the plaintiff from claiming exemption under Section 5 of the said Act. It was also denied that the plaintiff was actually running any Gaushala on the suit land, alleging instead that only 15–20 cows had been kept on the pretext of running a Gaushala so as to avoid ceiling provisions. It was contended that 60 acres of land had already been reserved for Gaushala purposes by the Government, and the State, being the rightful owner of the surplus land, was competent to use it in any manner. The notice issued by the Assistant Collector, Ballabhgarh, was stated to be valid, legal and in accordance with law. The defendant raised several preliminary objections regarding maintainability of the suit, locus standi of the plaintiff, absence of cause of action, as well as the bar of jurisdiction of the Civil Court.

6. Replication was filed by the plaintiff reiterating its claim and controverting the pleas raised by the defendant.

7. On the basis of pleadings, the trial Court framed the following issues:-

1. Whether plaintiff is owner in possession of suit land? OPP
2. Whether Civil Court has got no jurisdiction to entertain and try the suit? OPD
3. Whether plaintiff has no locus-standi to bring the suit?OPD
4. Whether plaintiff has no cause of action? OPD
5. Whether suit is not maintainable in the present form? OPD
6. Whether suit is bad for non-joinder and mis-joinder of parties?
OPD
7. Relief.

8. Both the parties have led their respective evidence.

**Findings of the Trial Court**

9. The learned trial Court, upon appreciation of the evidence, observed that copies of Jamabandis Ex.P6 to Ex.P9 and Ex.P11 as well as copies of Khasra Girdawaris Ex.P10, Ex.P12 and Ex.P13 reflected the ownership column in favour of Delhi Pinjara Pole Society (Registered), while in the column of cultivation names of tenants such as Khudkast Makbuja Malkan appeared. These entries supported the case of the plaintiff. On the other hand, the plea of the defendant that the land was declared surplus and had since vested in the Haryana Government was not substantiated by any convincing evidence. It stood proved from the testimony of DW1 Chander Bhan, Patwari, that although the land had been declared surplus by the Collector Agrarian, Palwal, vide order dated 29.11.1963 (Ex.D1), and initially vested in the State, yet the instructions for its utilisation were later withdrawn, as reflected from Ex.D2.

10. The Court noted that as per revenue records produced by the defendant, namely Khasra Girdawari for the year 1985–86 (Ex.D3), copy of Khasra Girdawari (Ex.D4) and copy of mutation (Ex.D5), the ownership continued to be recorded in the name of the plaintiff–society while names of Cheti Lal and Ram Sukh appeared in the cultivation column. It was further revealed that mutation of the land had been sanctioned in favour of the State in pursuance of the Collector Agrarian’s order dated 24.05.1984, but despite this, in all revenue documents the plaintiff–society continued to be reflected as owner.

11. The plea of the defendant that Shiv Shankar was the true owner and that the society had been formed only to save the land from surplus proceedings was rejected, as no evidence had been produced to establish this claim. In certain revenue entries, Shiv Shankar was mentioned as ‘Mohtamim’ of the society, i.e.,

**RSA-2366-1994 (O&M)****-6-**

the Manager, but nowhere was he shown as the owner. Thus, the conclusion was inevitable that the plaintiff–society was the owner of the suit land.

12. The trial Court further observed that though the land had once been declared surplus and directions for its utilisation had been issued, these were subsequently withdrawn by Ex.D2 as the land belonged to a religious institution and was being used for a Gaushala. Reliance was placed on Section 5-A of the Haryana Ceiling on Land Holdings Act, 1972, which provides that the Act shall not apply to land belonging to any religious or charitable institution of a public nature existing prior to commencement of the Act. A Gaushala, being such an institution, was covered by this exemption. The Collector Agrarian, Ballabhgarh, himself in his order dated 30.10.1982 (Ex.PX) recorded that the plaintiff–society had been registered prior to commencement of the Act and that the land was being utilised for Gaushala purposes, and hence was exempted from surplus utilisation so long as it continued to be used for that purpose.

13. On these findings, the trial Court held that the plaintiff–society was the owner in possession of the suit land, and accordingly decreed the suit declaring the plaintiff to be owner in possession and restraining the defendant from interfering in such possession.

Findings of the First Appellate Court

14. Feeling aggrieved, the defendant–State preferred an appeal. The learned lower Appellate Court, upon reappraisal of the evidence, dismissed the appeal and affirmed the findings of the trial Court. It was observed that the learned Government Pleader had conceded that till order Ex.PC/Ex.PX dated 30.10.1982 was complied with and so long as the land continued to be utilised for Gaushala purposes, the question of taking it back from the plaintiff–society would not arise.

**RSA-2366-1994 (O&M)****-7-**

The stand taken by the State in appeal was found to be inconsistent with its earlier pleadings. Importantly, it was noted that it was never the case of the State that order Ex.PC/Ex.PX dated 30.10.1982 passed by the Collector Agrarian, Ballabhgarh, was not binding, nor was it contended that any appeal had ever been filed against the said order. Thus, the order had attained finality. It was further noticed that the land was continuously being utilised for Gaushala purposes, and therefore the plea of the State was untenable. The appeal was accordingly dismissed.

15. When the present RSA was filed by the State challenging the concurrent findings, this Court by order dated 16.05.2024 noticed that though the land had been declared surplus on 29.11.1963, the same was never utilised. Subsequently, on 30.10.1982, order Ex.PC/Ex.PX had been passed exempting the land from utilisation under the Haryana Utilisation of Surplus and Other Areas Scheme, 1976, so long as it was used for Gaushala purposes. It was further recorded that in the event of deviation of user, the Government would be entitled to proceed under law. Accordingly, this Court directed the Deputy Commissioner, Faridabad, to submit a report regarding the present utilisation of the land and to examine whether during the last ten years the land had continued to be used for Gaushala purposes.

16. Pursuant thereto, the Deputy Commissioner along with other officials inspected the site on 07.08.2024. The report dated 23.08.2024 was submitted noting that as per the Veterinary Surgeon, 2674 cows were maintained at the Chhainsa farm. It was further reported that 1288 acres of land were under agricultural use, being leased out for cultivation of crops, and no land had been kept reserved for cow grazing. The report concluded that since the land was being

**RSA-2366-1994 (O&M)****-8-**

leased out for commercial purposes, proceedings for declaring 915 acres as surplus ought to be initiated.

17. Upon receipt of notice, the plaintiff–society filed objections to the said report. In its detailed affidavit supported by audited accounts and balance sheets, the society pointed out that it has been registered since 1933 and owns agricultural land in Haryana including villages Makhanpur and Chhainsa. The income from the land, whether by cultivation or by lease, is wholly devoted to the maintenance of the Gaushalas at Chhainsa and Kishanganj, Delhi. It was emphasized that leasing land for agriculture does not amount to commercial use, as all income was channelled towards fodder, feed, and upkeep of cows. Reference was made to the audited accounts for the period 2013–2023, which showed that the expenditure on maintenance of cows far exceeded the income from land. For instance, in 2013–14 the lease income was Rs.41,66,327/-, whereas expenditure on maintenance was Rs.1,06,38,074/-, leaving a deficit of Rs.86,50,912/-. Similar deficits were recorded in every subsequent year up to 2022–23. Thus, it was urged that leasing land for agriculture could not be equated with diversion to commercial purposes, and that the society remained squarely within the exemption of Section 5-A of the 1972 Act.

Conclusion

18. Having considered the rival submissions, the findings of the Courts below, the report of the Deputy Commissioner and the objections thereto, this Court is of the opinion that the concurrent findings are based upon proper appreciation of evidence. The trial Court as well as the first Appellate Court rightly held that the plaintiff–society is the owner in possession of the land and that the land stands exempt under Section 5-A of the Haryana Ceiling on Land Holdings

**RSA-2366-1994 (O&M)****-9-**

Act, 1972, being devoted to a religious/charitable purpose, namely maintenance of Gaushala.

19. The reliance placed by the appellant–State upon the Deputy Commissioner’s report does not advance its case. Even if land is cultivated or leased for agriculture, so long as the income is devoted exclusively to the Gaushala, the purpose remains religious/charitable and not commercial. The audited accounts filed by the society for the last ten years substantiate that the entire income has been consumed in maintenance of cows, and in fact expenditure has consistently exceeded income. The order of the Collector Agrarian dated 30.10.1982 (Ex.PC/Ex.PX), which exempted the land from utilisation so long as it is used for Gaushala purposes, has attained finality and binds the State.

20. In view of the above, it is held that the plaintiff–society continues to be entitled to exemption under Section 5-A of the Act. The plea of the State that 915 acres should be declared surplus cannot be sustained. The concurrent findings of the Courts below call for no interference.

21. Accordingly, the Regular Second Appeal filed by the State of Haryana is dismissed.

22. Pending application(s), if any, also stands disposed of.

September 16, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No.