IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12205 of 2014 (O&M)

Date of decision : 29.1.2016

Carmelite Charitable Society .. Petitioner

versus

State of Punjab and others .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. R. P. Dhir, Advocate, for the petitioner.

Mr. Nilesh Bhardwaj, Deputy Advocate General, Punjab.

Rajesh Bindal, J.

The petitioner, who claims itself to be a charitable institution, has filed the present petition impugning the communication dated 22.5.2013 rejecting its prayer for grant of exemption from payment of stamp duty on purchase of property.

The petitioner in the present case claims that it is a charitable institution registered under the Societies Registration Act, 1860. It applied for registration of sale-deed for the property purchased and sought exemption from payment of stamp duty and registration fee, however, the same was rejected, despite the fact that vide notifications Annexures P-12 and P-13 both dated 20.2.1981, duty chargeable on instrument of sale or of gift executed in favour of a charitable institution is exempted. He further submitted that in the present case exemption be granted, in case, in audit it was finally opined that stamp duty is payable, the petitioner undertakes to pay the same.

On the other hand, learned counsel for the State submitted that the notifications which have been relied upon by learned counsel for the petitioner provides a specific meaning to the term, 'Charitable Institution'. It means an institution established for charitable purpose within the meaning of the Charitable Endowment Act, 1890. In the case in hand, the object for which the petitioner society has been registered will not fall within the term charitable institution, hence, it cannot be granted exemption.

After hearing learned counsel for the parties, in my opinion, the disputed fact as to whether the petitioner society is a charitable institution, conforming to the provisions as contained in Charitable Endowment Act, 1890 or not, cannot be gone into in the writ petition, for which the factual aspect may have to be considered and a finding of fact may have to be recorded for which the writ is not the appropriate remedy.

Accordingly, the present writ petition is dismissed. However, the same will not debar the petitioner from availing its appropriate remedy in accordance with law.

29.1.2016 (Rajesh Bindal)
vs Judge