



**CM-410-LPA-2025 in/and
LPA-1323-2019 (O&M) & connected case 2**

Keeping in view the averments made in the applications, which are duly supported by an affidavit, the applications are allowed and pleadings of CWP No.775 of 2018 are taken on record.

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1. By this common order, two Letters Patent Appeals, the details of which have been given in the heading, are being disposed of as both the appeals involve the same question of law on similar facts.
2. In the present appeals, the challenge is to the order dated 31.01.2019 passed by the learned Single Judge in CWP No.775 of 2018 by which, the imposition of stamp duty under Section 47-A of the Stamp Act, 1899 (hereinafter referred to as '1899 Act') has been upheld.
3. Learned Senior Counsel appearing on behalf of the appellant *inter alia* submits that the appellant is a charitable trust registered under Section 12-A of Income Tax Act, 1961 and they enjoy certain exemptions including the payment of stamp duty. A copy of certificate is annexed for kind reference of Court as Annexure P-5 but still a finding has been recorded by the learned Single Judge that the said claim is incorrect and that too without giving any opportunity to present before the learned Single Judge, the document that the appellant is a charitable trust as per Charitable Endowment Act, 1890 and is covered under the Rules and Regulations to enforce for such claim of exemption especially when according to notification, dated 20.02.1981, by Punjab Government, no stamp duty or registration fees appreciable on charitable institutions.



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4. Learned Senior Counsel for the appellant submits that till the said question is decided on the basis of the record, the finding given by the learned Single Judge is not based upon any document brought on record even otherwise to show that the appellant is not a charitable trust.

5. Learned counsel appearing on behalf of the respondent-State submits that the question in the present case is with regard to the recovery of the deficient stamp duty under Section 47-A of 1899 Act and one of other the question raised is that whether the appellant is a charitable institution which falls within the definition given in the Charitable Endowment Act, 1890. Learned counsel for the respondent-State further submits that appellant is a private trust managed by Chairman, not trustee, as envisaged under the 1890 Act.

6. Learned counsel for the respondent-State further submits that the Financial Commissioner in the impugned order dated 20.09.2017 (Annexure P-4) had directed Collector-cum-Registrar Fatehgarh Sahib to recover alleged deficient stamp duty and recorded the finding that said claim of being a charitable trust was made by the appellant fraudulently so as to escape the liability of the payment of the stamp duty which finding has been upheld by the learned Single Judge.

7. We have heard learned Senior Counsel for the appellant and learned counsel for the respondent-State and have gone through the record with their able assistance.

8. The question which was put before the learned Single Judge was whether there is any fraud played by the appellant at the time of the

registry of the document so as to claim that Om Parkash Educational and



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Social Welfare Trust is a charitable trust. No document has been relied upon by the learned Single Judge to record the finding that there was a fraud played by the appellant qua claiming itself to be a charitable trust.

9. Once, the said fraud is being brought into operation to deny the claim of exemption of the stamp duty, the said fraud has to be established on the basis of the facts coupled with the provisions of the Charitable Endowment Act, 1890.

10. The findings recorded by the learned Single Judge are not based upon said provisions of law coupled with the fact of the present case hence, the order dated 31.01.2019 passed by the learned Single Judge is set aside and the case is remanded back to the learned Single Judge for appreciation as to whether, keeping in view the facts brought on record coupled with the provision of the 1890 Act, was there any fraud played by the appellant to claim itself to be charitable institution so as to claim exemption from payment of stamp duty.

11. The present appeals are disposed of in above terms.

12. Civil miscellaneous application pending if any, also stands disposed of.

13. A photocopy of this order be placed on the file of other connected case.

**(HARSIMRAN SINGH SETHI)
JUDGE**

November 26, 2025
harsha

**(VIKAS SURI)
JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No