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W.A. No.125 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Reserved on : 17.10.2025**

**Pronounced on : 12.01.2026**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM  
AND  
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.A. No.125 of 2015  
and  
M.P.No.1 of 2015,  
C.M.P.Nos.11247 and 11248 of 2025**

1.The Inspector General of Registration,  
Santhome High Road,  
Chennai – 600 028.

2.The District Registrar,  
Office of District Registrar,  
Vellore.

... Appellants

v.

1.The National Missionary Society of India,  
Rep. by its General Secretary,  
No.126, Peters Road, Royapettah,  
Chennai – 600 014.

2.The Christukula Ashram  
Tirupathur, Vellore District,  
Rep. By its Trustees / Sevaks  
1.S.Selvakumar  
2.E.Albert Joseph  
3.P.Arul Bose  
Ashramam Manavar Gurukulam  
Pudupet Road, C.K.Ashram Post,  
Tirupatur, Vellore District – 635602.

... Respondents



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*(R2 impleaded as proposed respondent vide Court order dated 25.09.2025 made in CMP.No.11245 of 2025 in WA.No.125 of 2015)*

**Prayer:** Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 04.03.2011 in W.P.No.7319 of 2010.

For Appellants : Mr.U.Baranidharan  
Special Government Pleader

For Respondents : Mr.M.K.Kabir, Senior Counsel for  
Mr.J.Chelladurai Caldwell for R1

Mr.N.Venkateswaran for R2

### **JUDGMENT**

*(Judgment of the Court was made by MOHAMMED SHAFFIQ, J.)*

Writ Appeal is filed by the State challenging the order of the learned Single Judge dated 04.03.2011 insofar as it set aside the order dated 22.02.2010 and treating/finding Document dated 01.03.1999 bearing No.4240 of 2002 titled as “Transfer of Trusteeship Declaration” dated 26.07.2002 as covered under Article 62(e) of the Stamp Act while rejecting the contention of the State, i.e., appellant herein that the document / Deed of “Transfer of Trusteeship Declaration”, (hereinafter referred to as “Subject Deed”) would be covered under Article 58(a)(ii) of



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the Indian Stamp Act (hereinafter referred to as 'Stamp Act').

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## **2. Brief facts:-**

2.1. For sake of convenience, the parties are referred to as per their rank set out in the writ petition.

2.2. Petitioner is a religious and charitable institution registered under the Societies Registration Act. Petitioner is primarily engaged in charitable works. Christu Kula Charitable Trust a registered Trust (hereinafter referred to as 'Trust'), an Ashram, ran an orphanage to help destitute and deserted children. The purpose of the Trust is to render selfless service to sick and poor, especially, villagers. Trust also had as its object, establishment of Educational Institution. Trust properties / money was, held by trustees who were to be appointed by Sevaks. Trust was to have five trustees, three from Ashram's Sevaks and two from outside the Ashram. Trust Deed provided that if Ashram Sevaks find themselves unable to run one or both of these institutions, i.e., hospital (or) school, they may discontinue either one or both, for such time as may be required. If at any time, Trust is dissolved or discontinued, Trust Deed provides that Rs.3,00,000/-, reserved for the



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Hospital and Rs.50,000/- for the school, shall be handed over to National Missionary Society of India, i.e., petitioner, to be used for the purposes set out in Appendix 'A' Rule X of Trust Deed.

2.3. Trustees faced difficulties in discharging their obligation primarily due to their old age. It was thus decided to handover the Management or Trusteeship of the Trust in the manner provided under the Trust Deed. Pursuant thereto, a resolution dated 26.02.1999 was passed and “Subject Deed” was executed by the Christu Kula Ashram Trust represented by its Trustees in favour of the petitioner Society, which was referred as Transferee Trustees and represented by its Governing body.

3. The above “Subject Deed” dated 01.03.1999 *inter alia* provided for the following:

a) Christu Kula Ashram Trust resolved to merge with the National Missionary Society of India.

b) Properties of the above Trust mentioned in the Schedule to the above Deed was to be vested with the Transferee Trust (or) Trustee i.e., the petitioner herein, who shall hold the same for the purposes and objectives of the Trust for which the transferor trustees were holding the



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same until the date of execution of the said Deed.

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4. The Subject Deed was presented for registration by paying duty of Rupees 300/- (Rs.90+210). However, Registering Authority demanded a sum of Rs.70,000/- as deficit stamp duty vide letter dated 26.04.2001. Thereafter, notice dated 04.06.2004 was issued and a further sum of Rs.21,16,779/-, comprising of Rs.19,16,779/- towards duty and Rs.1,53,000/- towards penalty, was demanded. It is stated that the Accountant General had observed that the Subject Deed ought to be classified as "Settlement" in terms of Section 2(24) of the Stamp Act and stamp duty ought to be levied under Article 58-a(ii) of the Stamp Act, based on the said observations.

5. Petitioner was directed to pay deficit stamp duty vide notice dated 04.06.2004. It was indicated therein that in case of failure to pay deficit stamp duty, action would be initiated under Section 33-A of the Stamp Act. Petitioner failed to remit deficit stamp duty as claimed by the

respondent. 2<sup>nd</sup> respondent commenced enquiry under Section 33-A of Stamp Act as to why deficit stamp duty of Rs.24,02,694/- ought not be collected from petitioner. In response, petitioner submitted her



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representation dated 23.09.2004. On considering the above response of the petitioner, an order dated 16.11.2004 came to be passed directing the petitioner to pay deficit stamp duty of Rs.24,02,694/-.<sup>1</sup>

6. Aggrieved, petitioner preferred an appeal under Section 33(A) (3) to the Chief Controlling Revenue Authority. The appellate authority confirmed the same vide order dated 22.02.2010. Hence, writ petition in W.P.No.7319 of 2010 came to be filed. The learned Judge allowed the Writ Petition finding that the Subject Deed would fall under Article 62(e) of the Stamp Act.

**7.Order of Chief Controlling Revenue Authority and learned Judge – Reasoning and Relevant Extracts :**

a) Order of Chief Controlling Revenue Authority:-

The Chief Controlling Revenue Authority rejected the revision petition/appeal against levy of stamp duty on “Subject Deed” under Article 58(ii) of Stamp Act on the premise that Article 62(e) of Stamp Act would apply to transfer between trustees of same trust and not to transfer between trustees of different trust. The relevant portion is extracted hereunder;

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<sup>1</sup>(The Notice dated 04.06.2004, Representation dated 23.09.2004 and Order dated 16.11.2004 recorded by the learned by the Learned Judge not kept in Typed set of papers)



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*“5. The contents of the revision petition, the written submission of the appellant and the files of the District Registrar of Vellore have been scrutinized by me carefully. Article 62(e) of the Stamp Act is concerned with the transfer of any trust property from one trustee to another trustee of the same trust or from trustee to beneficiary of the same trust. When the Trustee of a trust transfers his trust properties to another Trust the concession of stamp duty and Registration fee is not to be given. The document in question involves two different trusts. Hence it is to be classified under section 58(a) (ii) of the Indian Stamp Act. According to G.O.1224/Revenue Dt.25.4.64 Item No.24 the trust properties are transferred for Religious and Charitable purposes 50% of the concession may be given only after contemplating about the entire recitals of the document. That too, if the trusts are exempted under section 80 (g) of the Income Tax Act. In view of the above Revision Petition is rejected and the order of the District Registrar is confirmed.”*

b) Order of the learned Judge :-

i) The learned Judge held that the Subject Deed in question would not qualify as a “Settlement Deed” within the meaning of Section 2(24) of the Stamp Act, instead stamp duty, ought to be levied only under Article 62(e) of the Stamp Act, in view of the following:

ii) That the Subject Deed would show that Ashram was amalgamated with the petitioner as mandated by the Trust Deed of the Ashram, merger of a Trust would not fall within the purview of Article 58 of the Stamp Act.

iii) Trustee is not the owner of the property but merely holds and



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manages property for the benefits of the beneficiaries, hence, there can be no transfer of ownership but, only handing over of management of the property to another Trust having similar objectives.

iv) That the Subject Deed merely declares existence of Trust, coupled with transfer of its management and may not fall within the definition of the term “conveyance” or “Settlement” for the purposes of Article 58 of Stamp Act, inasmuch as transfer is without consideration and not a “conveyance” within the meaning of Section 2(24) of the Stamp Act.

8. Relevant portion of the order is extracted hereunder:

*“10. ..Further, a trustee or trustees is/are only empowered to manage the trust property by virtue of a legal fiction vesting the property in the trustee. Therefore, a trustee is not the owner of the property, but merely holds and manages the property for the benefit of the beneficiaries as contemplated in the deed. Hence, I find there is no transfer of ownership, but only handing over of the management of the property to another trust having similar objectives. This is a basic and fundamental element in a trust and that the ownership does not vest with the trustees, more so, a transfer of trusteeship cannot attract duty under conveyance or settlement, but only would fall under Article 62(e) of the Stamp Act. Therefore, the decision of the respondent demanding a huge amount towards deficit stamp duty is unsustainable in law.*

...

*13. In the present case also, when the property of the one trust is transferred to another trust without any consideration for the benefit of the beneficiaries as mandated by the testator, such an instrument cannot be*



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*treated as settlement and as per the sole intention of the author, namely, the testator, the instrument in question cannot be understood as deed of settlement within the meaning Section 2(24)(b) of the Indian Stamp Act attracting stamp duty under Article 58 of Schedule I of the Indian Stamp Act.*

...

16. Therefore, as per the ratio decided by the above mentioned two Full Bench judgments, when the intention of the author of the original trust of the Ashram is looked at carefully, the document No.4240 of 2002, which is merely declaring the existence of trust coupled with transfer of its management, does not fall within definition of term "conveyance", in as much as there is no consideration either precedes the transfer or follows after such transfer, hence, to my mind, the intention of the author of the original trust of the Ashram if carried out through transfer of management as per the letter and spirit of the terms and conditions prescribed in Section X of the Trust Deed, such transfer without consideration does clearly reflect the quintessence of the definition of the word 'settlement' in Section 2(24)(b) of the Stamp Act, which states that the property should be distributed among the members of the family of the author of the trust or should be ordained to be given to those near and dear to him. In the absence of any such clause express or implied to be culled out by necessary implication from out of the instrument to conclude about distribution of property, either movable or immovable among the settlor's heirs or relatives, such an instrument cannot be treated as a 'settlement'. Accordingly, I am of the view that deed dated 01.03.1999 executed by the Ashram, namely, transferor Christukula in favor of the transferee, namely, the National Missionary Society of India/the petitioner herein, is a declaration of trust and not of conveyance within the meaning of Section 2(24) of the Stamp Act. Therefore, the stamp duty demanded in the impugned order is not sustainable in law."



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9. Aggrieved by the above order, State has preferred the present Writ Appeal.

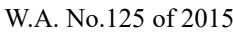
**10. Case of the Appellants:**

The State would challenge the order of the learned Judge on the premise that the following aspects were not taken into account / failed to be appreciated by the learned Judge.

(i) That there is clear disposition of property in favour of the "The National Missionary Society of India" i.e., the petitioner herein, for the purpose of religious and charitable purpose. "Subject Deed" constitutes a "Settlement" in terms of clause (c) of sub-section (24) of Section 2 of Stamp Act.

(ii) That the Subject Deed is chargeable to duty under Article 58(a)(ii) of Stamp Act as it constitutes Settlement; Article 62(e) of Stamp Act will apply only to documents where transfer is from one Trustee to another Trustee of the same Trust or from a Trustee to a beneficiary.

(iii) That where a Trust seek to transfer and vest all properties in another trust or society through a document, it falls within the meaning of "Settlement" as defined in Section 2(24) of the Stamp Act and liable to duty under Article 58(a)(ii) of Stamp Act.



**Judge does not warrant interference for the following reasons:**

(ii) That the transfer of Trusteeship is in pursuance to the object of the Trust which mandates, continuance of the Trust for the benefit of section of public. Neither the Trustees, nor the Trust/organization is empowered to sell the properties of the Trust, and appropriate the sale consideration. Trustees of charitable Trust do not appropriate from the trust income. Consequently, any amalgamation is without consideration, hence, Article 62(e) of the Stamp Act would be applicable.

(iii) Section 2 (24) (c) of the Stamp Act is a “Definition clause” of various words and expressions for the purposes of Stamp Act including “Settlement” and said section is not a charging section. Merely because a settlement can be made in favor of charitable and religious society, it does not mean that a declaration of Trust or merger of Trusts would attract duty under Article 58 of the Stamp Act.



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WEB COPY (iv) The duty to be levied on an instrument of “Declaration of Trust”, can be only under Article 64 of Stamp Act, while a Transfer of Trusteeship with or without consideration would be covered under Article 62(e) of the Stamp Act. In this case, handing over of Trusteeship pursuant to a resolution by the Board of Trustee is without consideration.

(v) Trustee/Trustees are only empowered to manage the Trust property by virtue of a legal fiction vesting the property in the Trustee. A Trustee is not the owner of the property but he merely holds and manages the property for the benefit of the beneficiaries contemplated in the Trust Deed. Therefore, there can be no transfer of ownership by Trustees but only handing over the management of the property to be managed by a different set of trustees or organization having similar objectives. As the basic/fundamental element in a Trust is that ownership does not vest with Trustees, Transfer of Trusteeship cannot attract duty as “Settlement” but would only fall under Article 62(e) of the Stamp Act.

12. Having considered the submissions of both sides, order of the the first appellant and that of the learned Judge, we shall now proceed



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to deal with the contentions.

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13. Before proceeding further, it may be relevant to keep in view the following settled principles relating to Stamp duty as explained by the Supreme Court in the case of **S.N. Mathur v. Board of Revenue**, reported in **(2009) 13 SCC 301**, the relevant portions of the judgment is extracted hereunder:

*“12. The principles relating to charging stamp duty are well settled. They are:*

*(i) The object of the Stamp Act is generation of revenue. It is therefore a fiscal enactment and has to be interpreted accordingly.*

*(ii) Stamp duty is levied with reference to the instrument and not in regard to the transaction, unless otherwise specifically provided in the Act.*

*(iii) Stamp duty is determined with reference to the substance of the transaction as embodied in the instrument and not with reference to the title, caption or nomenclature of the instrument.*

*(iv) For classification of an instrument, that is, to determine whether an instrument comes within a particular description in an article in the Schedule to the Act, the instrument should be read and construed as a whole.*

*(v) Where an instrument falls under two or more descriptions in the Schedule to the Act, the instrument shall be chargeable with only one duty, that is the highest of the duties applicable to the different description. But where an instrument relates to several distinct matters, it shall be chargeable with the aggregate amount of duties to which separate instruments would be chargeable.”*



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14. We shall now turn to Section 6 of the Stamp Act, inasmuch as it has a direct and material bearing in resolving the present controversy viz., whether the “Subject Deed”, would be covered under Article 62(e) or under Article 58(ii) of Stamp Act. Section 6 of the Stamp Act reads as under:

*“6. Instruments coming within several descriptions in Schedule I. — Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:*

*Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.”*

15. A reading of the above provision would show that this Section applies when an instrument does not contain distinct matters but comes within the provisions of two or more articles in the Schedule. In such a case, the instrument is to be charged with the highest of the duties leviable when such duties are different. If an instrument falls within two or more of the descriptions in Schedule I, it shall be chargeable under the Article, which prescribes/provides for the highest of such duties.

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Article 62(e) of Stamp Act provides for stamp duty of Rs.30/-, while Article 58(ii) of Stamp Act provides for stamp duty at the rate of 8% of the market value of the property, which is the subject matter of Settlement. Indisputably, Article 58(ii) of Stamp Act provides for a higher duty when compared to Article 62 (e) of Stamp Act. If so, once it is found that the “Subject Deed”, would answer the description of “Settlement” under Section 2(24) read with Article 58(ii) of Stamp Act, that it may also answer the description under Article 62(e) of Stamp Act, by virtue of Section 6 of Stamp Act may not have any bearing and, Stamp duty ought to be levied under Article 58(ii) of Stamp Act, inasmuch as it provides for a duty higher than Article 62(e) of Stamp Act.

16. It thus appears that the enquiry ought to commence with whether “Subject Deed” would fall within Article 58(ii) of Stamp Act as a “Settlement”, if the answer to the above question is in affirmative, the fact that such instrument may fall within the description of Article 62(e) in Schedule-I of Stamp Act, may not have a bearing inasmuch as Article 58 (ii) of Stamp Act provides for a higher stamp duty as compared to Article 62(e) of Stamp Act. In other words, it may be necessary to exclude the applicability of Article 58(ii) of Stamp Act



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before one may treat the subject instrument as falling under Article 62(e) of Stamp Act.

17. It may thus be necessary to understand the scope and width of Section 2(24) of Stamp Act read with Article 58(ii) of the Stamp Act. The relevant provision and the Article reads as under:

**“Section 2(24) of the Stamp Act:**

*“2(24) “Settlement”. — “Settlement” means any non-testamentary disposition, in writing, of moveable or immovable property made—*

*(a) in consideration of marriage,*

*(b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or*

*(c) for any religious or charitable purpose:*

*and includes an agreement in writing to make such a disposition and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration trust or otherwise, the terms of any such disposition;”*



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**Article 58(ii):**

|                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>58.Settlement-</b><br/> <b>(a) Instrument of (including deed of dower)-</b><br/> <i>(I) if the instrument of settlement is in favour of a member or members of a family;</i></p>                                                                                                                                                                       | <p><i>One rupee for every Rs.100 or part thereof of the market value of the property which is under settlement:</i></p> <p><i>Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed twenty rupees.</i></p> |
| <p><i>Explanation, For the purpose of this Article, the word "family" means father, mother, husband, wife, son, daughter, grandchild, brother or sister. In the case of any one whose personal law permits adoption, "father" shall include an adoptive father "mother" an adoptive mother, "son" an adopted son and "daughter" an adopted daughter.</i></p> |                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><i>(ii) in any other case -</i><br/> <b>(A) of immovable property situated within the Chennai Metropolitan Planning Area and the Urban agglomeration of Madurai, Coimbatore, Salem and Tiruchirapalli and the City of Tirunelveli.</b></p>                                                                                                                | <p><i>Eight rupees for every Rs.100 or part thereof of the market value of the property which is the subject matter of settlement.</i></p>                                                                                                                                                                                                                                                                |
| <p><b>(B) of immovable property situated in other area</b></p>                                                                                                                                                                                                                                                                                               | <p><i>Eight rupees for every Rs.100 or part thereof of the market value of the property which is the subject matter settlement.</i></p>                                                                                                                                                                                                                                                                   |
| <p><b>(C) of any other property</b><br/> <b>Exemption</b><br/> <i>Deed of dower executed on the occasion of a marriage between Muhammadans.</i></p>                                                                                                                                                                                                          | <p><i>Seven rupees for every Rs. 100 or part thereof of the market value of the property which is the subject matter of settlement.</i></p>                                                                                                                                                                                                                                                               |
| <p><b>(b) Revocation of -</b></p>                                                                                                                                                                                                                                                                                                                            | <p><i>The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding eighty rupees.</i></p>                                                                                                                                                                                                  |



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18. From a reading of the above definition and Articles, the

following position appears to emerge:

(a) Any non-testamentary disposition in writing, either of movable or immovable property made for any religious or charitable purpose would constitute “Settlement” in terms of Section 2 (24) of Stamp Act. Not only instruments which are non-testamentary dispositions of property for any religious or charitable purpose, but also Declarations of Trust which record the terms of such disposition, are Settlements.

(b) The expression “disposition” is not defined under “Stamp Act”. In the absence of any statutory/artificial definition of the expression “*disposition*”, one may have to attribute the natural meaning to the said expression. The expression '*disposition*', in the context of Section 2(24) of the Stamp Act has been considered by the Supreme Court in the case of **S.N. Mathur v. Board of Revenue** reported in (2009) 13 SCC 301 and it was explained as under:

*"14. "Disposition" is a term of wide import which encompasses any devise or mode by which property can pass and includes giving away or giving up by a person of something which was his own (see Commr. of Gift Tax v. N.S. Getty Chettiar [(1971) 2 SCC 741 : AIR 1971 SC 2410] and CED v. Kancharla Kesava Rao [(1973) 2 SCC 384 : 1973 SCC (Tax) 549 : AIR 1973 SC 2484] ). This Court has also held that the word "disposition" refers*



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*to a bilateral or multilateral act of transfer and will not apply to a unilateral act as, for example, when a person treats his individual property as a joint family property. (See Goli Eswariah v. Commr. of Gift Tax [(1970) 2 SCC 390 : AIR 1970 SC 1722] .)*

*15.Black's Law Dictionary defines "disposition" as "the act of transferring something to the care or possession of another; or relinquishment or giving up of property". In this case, the instrument is not termed as a "settlement". It is clearly a declaration of trust and is described as a "deed of trust". But it records the terms of disposition of an immovable property for religious and charitable purposes."*

(c) A Settlement by way of Trust is also permissible. Merely because an instrument answers the definition of a "Trust Deed", it does not cease to be a Settlement Deed for the purpose of stamp duty, if it otherwise answers the definition of "Settlement". It is well settled that all Trusts are not Settlements, and all Settlements are not Trusts, but a Deed of Trust can also be a Deed of Settlement. The following observation of the Hon'ble Supreme Court in the case of **S.N Mathur** made the above provision clear:



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*“12....Merely because an instrument answers the definition of a “trust deed” it does not cease to be a settlement deed for the purpose of stamp duty, if it answers the definition of “settlement” also. It is well settled that all trusts are not settlements, and all settlements are not trusts, but a deed of trust can also be a deed of settlement.”*

19. We also find that the Hon'ble Supreme Court in **S.N. Mathur (Supra)** noted the decision of the Special Bench of the Delhi High Court in **Banarsi Dass Ahluwalia**, holding the ambit of “settlement” wider than that of “trust.” The relevant portion is extracted hereunder:

*“24. In Banarsi Dass Ahluwalia [AIR 1972 Del 128] relied on by the respondents, a Special Bench of the Delhi High Court was considering an instrument whereby the founder created a public charitable trust and appointed himself as the first trustee and dedicated and endowed upon the trust his various assets and properties and declared that the business and properties described thereunder, shall no longer be the personal business and properties of the founder but shall be held in trust. The Delhi High Court held that the term “settlement” had a wider ambit than “trust” having regard to the definition of “settlement” in Section 2(24) . It also held that while a trust made for the purposes specified in Section 2(24) would always be a settlement, the converse may not be true. The Court therefore held that the deed of trust also answered the definition of “settlement” and having regard to Section 6, when an instrument is covered by both Articles 64 and 58 of the Act, it shall be chargeable to duty under Article 58 as the duty thereunder was higher than the duty under Article 64. The decision reiterates the principle enunciated by the Allahabad High Court in Sridhar [AIR 1964 All 537]. Be that as it may.”*



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20. Keeping in view the law laid down by the Supreme Court, we shall now examine the relevant clauses of the Subject Deed to find whether there is a disposition of property “for religious or charitable purposes”. Purposes which would constitute “Religious or charitable purpose” has not been defined under Stamp Act. It may therefore be necessary to attribute the natural meaning to the said expressions. We would think “charitable purpose”, would certainly include relief to poor, education, medical relief. In this regard, it may be relevant to refer, *P Ramanatha Aiyar's Advanced Law Lexicon, the Encyclopaedic Law Dictionary with Words & Phrases, Legal Maxims and Latin Terms:*

*"CHARITABLE PURPOSE" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which related exclusively to religious teaching or worship. [Charitable Endowments Act (6 of 1890), S. 2],*

*"Charitable purpose" means "Charitable" as "of or relating to the assistance of those in need". [Oxford English Dictionary as cited in S.H. Medical Centre Hospital v. State of Kerala,*



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(2014) 11 SCC 381, para 17].

*"Charitable purpose" includes relief of the poor and free /medical aid. S.H. Medical Centre Hospital v. State of Kerala, (2014) 11 SCC 381, para 11 [Kerala Building Tax Act (7 of 1975), S. 3(1), Explanation].*

*For the purpose of the sub-section, "Charitable purpose" includes relief of the poor and free medical relief. [Kerala Building Tax Act (7 of 1975), S. 3(1)(b) Explanation].*

*To serve a charitable purpose it is not necessary that the object should be to benefit the whole of mankind or all persons in a particular country or State. It is sufficient if the intention to benefit a section of the public as distinguished from a specified individual is present. Ahmedabad Rana Caste Association v. Commissioner of Income Tax, Gujarat, AIR 1972 SC 273."*

21. We shall now examine the relevant clauses of the Subject Deed to see if there is a disposition, if so, for a charitable purpose. The relevant portions of the Subject Deed is extracted hereunder:

*"Whereas the Transferor Trustees cum sevaks have passed a resolution on 26.02.1999 to transfer and vest the properties of the "CHRISTU KULA ASHRAM" for all the Trusts and purposes for which they were holding till this day with the*



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*administration and Management thereof to the transferee trustees, viz., THE NATIONAL MISSIONARY SOCIETY OF INDIA as enshrined in the constitution of the "CHRISTU KULA ASHRAM".*

*Whereas at present a situation has arisen that the TRUST affairs are not able to be carried on effectively as per the aims and objectives of the Rules governing the TRUST and hence the **TRANSFER OF TRUSTEES**, herein have resolved to merge "The Christu kula Ashram" ministry with the NATIONAL MISSIONERY SOCIETY OF INDIA, the Transferee Trustees herein with the properties mentioned in the schedule hereunder which are to be vested with the Transferee Trustees from this day.*

...

*NOW THIS DEED OF TRANSFER OF TRUSTEESHIP WITNESSETH that in pursuance of the above said undertaking, resolutions and determinations, the TRANSFEROR TRUSTEES doth hereby hand over the absolute possession and enjoyment of the schedule properties to the NATIONAL MISSIONARY SOCIETY OF INDIA viz, the TRANSFEE TRUSTEES together with all the estate, right, interest and title over the same unto the TRANSFEE TRUSTEES to be vested with the NATIONAL MISSIONARY SOCIETY OF INDIA and to hold the same in trust for the same*



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*purposes and objectives for which the TRANSFEROR TRUSTEES were holding till this day.”*

22. From a reading of the above clauses in the Subject Deed, it is clear that there is a transfer *of the schedule properties by the Trustees of Christu Kula Trust to the NATIONAL MISSIONARY SOCIETY OF INDIA viz, the TRANSFEREE TRUSTEES* thus satisfying the requirement of “*disposition*”, for the purposes of Section 2(24) of Stamp Act as explained by the Supreme Court.

23. The disposition of property by the Trustees of Christu Kula Trust to the NATIONAL MISSIONARY SOCIETY OF INDIA viz, the TRANSFEREE TRUSTEES is for the purpose of running the hospital and school, thus for a Charitable purpose.

24. It thus appears that the Subject Deed would constitute a “Settlement” within the meaning of Section 2 (24)(i) of Stamp Act and thus would fall within Article 58(ii) of Stamp Act and liable to stamp duty in terms of the said Article. We say so, inasmuch as merely because an instrument answers the definition of a “Trust Deed” it does not cease to



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be a Settlement for the purpose of stamp duty, if it answers the definition of “Settlement” also. It is well settled that all Trusts are not Settlements, and all Settlements are not Trusts, but a Deed of Trust can also be a Deed of Settlement.<sup>2</sup>

25. Having found that “Subject Deed” would constitute a “Settlement” for the purpose of Stamp Act, it may thus not be necessary to even examine if it answers the description under Article 62(e) of Stamp Act, in view of Section 6 of Stamp Act which provides that if an instrument falls within two or more of the descriptions in Schedule I, it shall be chargeable under the Article, which prescribes/provides for the highest of such duties of an instrument in any other aspect.

26. Having said that, we shall examine the reasons which weighed in the mind of the learned Judge in rejecting the contention urged by the State, that the Subject Deed would be covered under Article 58(ii) of Stamp Act, instead finding that it would be covered under Article 62(e) of Stamp Act.

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<sup>2</sup> *S.N. Mathur v Board of Revenue*, (2009) 13 SCC 301.  
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**(i) Trustee does not have authority to transfer Trust property:**

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a) The learned Judge has proceeded on the basis that the property does not vest absolutely with the Trustees, thus, there can be no transfer of the Trust property/estate by the Trustees. The above reasoning appears to be flawed. It is trite that Trustees are the legal owners and would have the authority to deal with the property in the manner provided in the Trust Deed.<sup>3</sup>

b) Importantly, Clause X(4) of the Trust Deed provides that if the Trustees are unable to discharge the obligation, the whole of the property movable and immovable then existing together with the three and a half lakhs of rupees (intended to be set apart for the endowment of the hospital and school) and any other monies remaining in the hands of the Trustee or with the Treasurer of the Ashram shall be handed over to the National Missionary Society. Relevant clause is extracted hereunder:

*“(4) If the Ashram is dissolved, the whole of the property movable and immovable then existing together with the three and a half lakhs of rupees (intended to be set apart for the endowment of the hospital and school) and any other monies remaining in the hands of the Trustee or with the*

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<sup>3</sup>*Raja Baldeodas Birla Santatikosh v. Commissioner of Income-Tax, 1990 SCC OnLine Cal 424*  
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*Treasurer of the Ashram shall be handed over to the National Missionary Society. It is the desire of the Founders that in this case the N.M.S. shall endeavour to carry on the hospital and the school either themselves or through a special committee or committees appointed for the purpose and that the three lakhs of rupees be used as Endowment for the running of the Hospital and the half lakh of rupees be similarly used for the carrying one of the school, with such developments or modifications as the Society consider desirable.*

*If the N.M.S. by itself finds that it is not practicable to continue one or both of these institutions as channels of Christian love and service, it should invite the co-operation of other Christian body or bodies to carry on the institution or institutions with the endowment or endowments ear-marked for them. If this also proves impossible, the N.M.S. shall be free to use the property and money as it seems best to them for the extension of Christ Kingdom.”*

c) The above clause would show that the Trust Deed itself contemplates transfer of Trust property by the existing Trustees of the Ashram in favour of National Missionary Society of India in case they are unable to discharge the obligation and propose to dissolve the



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Ashram following the procedure indicated for dissolution in Clause X.

The above finding by the learned Judge, of inability to transfer Trust property by Trustees of Christu Kula Trust is made overlooking and contrary to the express clause contained in the Christu Kula Trust Deed, thus cannot be sustained.

**(ii) Absence of consideration:**

a) The learned Judge also found that there is no consideration under the Subject Deed, thus would not constitute “Settlement”, resultantly would not fall under Article 58(ii) of Stamp Act.

b) The above reasoning is contrary to the settled legal principle as to what would constitute 'consideration' and also the clauses in the Subject Deed. While it is true that consideration is an essential ingredient for a Settlement and constitutes the primary difference between Gift and Settlement. Consideration is nothing but the quid pro quo, that each party to a contract is to perform or render a part of their obligation under the contract.<sup>4</sup> However, the finding that the Subject Deed is not supported by consideration is grossly misconceived. Section 2(d) of the Indian Contract Act, 1972 defines 'consideration' as under:

*“2(d) When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or*

<sup>4</sup> N.P.Saseendran Vs. N.P.Ponnamma, (2025) 7 SCC 502  
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*does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise;”*

c) A reading of the above provision would show that consideration for a promise *inter alia* would include an act, forbearance or promise done or given at the request of the promisor by the promisee or any other person. It may also be relevant to refer to the natural meaning attributed to the expression 'consideration' as follows:

(1) Black's Law Dictionary defines 'consideration' as follows :

**“Consideration: -1. Something (such as an act, a forbearance, or a return promise) bargained for and received by a promisor from a promisee; that which motivates a person to do something, esp. to engage in a legal act. Consideration, or a substitute such as promissory estoppel, is necessary for an agreement to be enforceable.”**

(2). Webster's Third New International Dictionary (unabridged) defines, “consideration” thus:

*‘Something that is legally regarded as the equivalent or return given or suffered by one for the act or promise of another.’*



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(3). In Vol. 17 of *Corpus Juris Secundum* (pp. 420-21 and 425) the import of “consideration” has been described thus:

*‘Various definitions of the meaning of “consideration” are to be found in the textbooks and judicial opinions. A sufficient one, as stated in Corpus Juris and which has been quoted and cited with approval is “a benefit to the party promising or a loss or detriment to the party to whom the promise is made....”*

At common law every contract not under seal requires a consideration to support it, that is, as shown in the definition above, some benefit to the promisor, or some detriment to the promisee.

(4). *Salmond on Jurisprudence*, the word “consideration” has been explained in the following words:

*‘A consideration in its widest sense is the reason, motive or inducement, by which a man is moved to bind himself by an agreement. It is for nothing that he consents to impose an obligation upon himself, or to abandon or transfer a right. It is in consideration of such and such a fact that he agrees to bear new burdens or to forego the benefits which the law already allows him.’*

27. It is thus clear that a promise to do an act or undertaking to do an act or undertaking an obligation would constitute 'consideration'. It may be relevant to refer to the following clauses of “Subject Deed”:



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*“The present SEVAK TRUSTEES of the “CHRISTU KULA ASHRAM” shall be duly maintained and taken care of by the NMSI till their lifetime and the Governing Board shall safeguard their interests and welfare.*

*The NMSI which is carrying on the religious and charitable activities for promoting the social and economic life of the weaker sections shall take over the assets of the CHRISTU KULA ASHRAM in trust as TRANSFEREE TRUSTEES from this day and continue to carry on the activities and govern the affairs of the Ashram and its Institutions through the above said GOVERNING BOARD.*

*NOW THIS DEED OF TRANSFER OF TRUSTEESHIP WITNESSETH that in pursuance of the above said undertaking, resolutions and determinations, the TRANSFEROR TRUSTEES doth hereby hand over the absolute possession and enjoyment of the schedule properties to the NATIONAL MISSIONARY SOCIETY OF INDIA viz, the TRANSFEREE TRUSTEES together with all the estate, right, interest and title over the same unto the TRANSFEREE TRUSTEES to be vested with the NATIONAL MISSIONARY SOCIETY OF INDIA and to hold the same in trust for the same purposes and objectives for which the TRANSFEROR TRUSTEES were holding till this day.”*

28. The above would show that the Transferee Trustee, viz., The National Missionary Society of India, was cast with the following



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obligations:

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a) To maintain and take care of Sevak Trustees of Christu Kula Ashram during their lifetime.

b) The Transferee Trustee shall continue to carry on the activities of Christu Kula Ashram.

c) The Transferee Trustees shall hold the Transfer Trust property for the same purposes and objects for which the Transferor Trustees were holding till the date of execution of the Deed of Transfer of Trusteeship.

28.1. As seen supra, Trust is an obligation<sup>5</sup> and obligation to perform an act would also constitute consideration. The transferee Trustees under the subject Trust Deed were under an obligation *inter alia* to maintain the Sevak Trustees during their lifetime and to hold the Trust properties and use the same for the purpose and object of the transferor Trust. This in our view would constitute “consideration”, which the learned Judge failed to appreciate.

<sup>5</sup> W.O.Holdsworth and others Vs. State of U.P., 1957 SCC OnLine SC 94;  
Bai Dosabai Vs. Mathuradas Govind Das, AIR 1980 SC 1334;  
Sankar Padam Thapa Vs. Vijaykumar Dineshchandra Agarwal, 2025 SCC OnLine SC 2194;  
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29. For all the above reasons, we find that the Deed of Transfer of Trusteeship would be covered under Article 58(ii) as Settlement.

30. Though CMP has been filed alleging that the Deed of Transfer of Trusteeship has been fraudulently executed, this is an aspect which cannot be raised nor examined in the present Writ Appeal. It is open to the concerned parties to raise it before the appropriate Authority/Court.

31. Accordingly, the impugned order passed by the learned Judge is set aside and the order of the first respondent/appellate authority vide order dated 22.02.2010 is confirmed. The Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**[S.M.S.,J.]                      [M.S.Q,J.]**  
**12.01.2026**

Speaking (or) Non Speaking Order  
Index : Yes/ No  
Neutral Citation : Yes/ No  
spp/Lm



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**S.M.SUBRAMAIAM, J.**  
**AND**  
**MOHAMMED SHAFFIQ, J.**  
spp/Lm

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**12.01.2026**