209   IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)   **CWP No. 730 of 2018 (O&M)**
                               Date of Decision: 31.01.2019.

Om Parkash Educational and Social Welfare Trust
                                               ... Petitioner
                     Versus
State of Punjab and others
                                               ... Respondents

(2)   **CWP No. 775 of 2018 (O&M)**

Om Parkash Educational and Social Welfare Trust
                                               ... Petitioner
                     Versus
State of Punjab and others   ... Respondents

CORAM :   **Hon'ble Mr. Justice Jitendra Chauhan**

Present: Mr. Akshay Bhan, Sr. Advocate with
                Mr. Gurinder Singh, Advocate,
                for the petitioner(s) in both the petitions.

                Mr. TPS Chawla, DAG, Punjab.

JITENDRA CHAUHAN.J.
                This judgment shall dispose of aforementioned two civil writ petitions as common questions of facts and law are involved therein.

                The facts are being taken from C.W.P. No. 730 of 2018. The petitioner is a registered Trust having its registered office at Mandi Gobindgarh. The petitioner has sought quashing of order dated 29.09.2017 (Annexure P-4) passed by respondent No.1 and the notice dated 23.05.2011 (Annexure P-1).

                The facts of the case are that sale-deeds No.2458 and 2459 dated 01.10.2002 were registered in favour of the petitioner in the office of Sub-Registrar, Fatehgarh Sahib. Vide letters dated

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integrity of this document

27.04.2011, the Sub Registrar, Fatehgarh Sahib referred the said sale deeds to the Collector for recovery of deficiency of Stamp Duty and registration fee. Notice under Section 47-A of the Stamp Act, 1890 (for short "the Act") (Annexure P-1) was issued by Collector, Fatehgarh Sahib to the petitioner(s) on 23.05.2011 stating therein that there was deficiency in the payment of stamp duty. The notices were challenged by the petitioner and the same were set side by respondent No.2 vide order dated 03.10.2012 (Annexure P-2). Thereafter vide order dated 11.06.2013 (Annexure P-3), it was held by respondent No.3 that since the notice was issued after lapse of three years from the date of execution of sale deed, the notice is time barred in view of Section 47-A of the Act. The order dated 11.06.2013 (Annexure P-3) was challenged by the State before respondent No.1 by filing a revision petition. Vide impugned order dated 20.09.2017 (Annexure P-4), respondent No.1 has directed the Collector-cum-Registrar, Fatehgarh Sahib to recover the alleged deficient stamp duty with interest from the petitioner.

It is contended that the impugned order (Annexure P-4) is bad in law on the ground that the petitioner being a charitable trust is exempted from paying stamp duty. The impugned notice is time barred as the same was not issued within three years from the date of registration of sale deed as mandated by Section 47-A of the Act.

On the other hand, it is contended that the petitioner's institute is not covered under the provisions of notification dated

20.02.1981 as such, the stamp duty is not exempted. The State Government has to appoint a Treasurer of the Charitable Endowment for the purpose of administration of the charitable endowment and the property shall vest in the Treasurer but in the present case, the property has not been transferred in favour of the Treasurer.

Heard.

As per notification No. S.O.9/CA.2/99/S.9/81 dated 20.02.1981, the charitable institution should fall within the definition as given in the Charitable Endowment Act, 1890. As per the Act, the land has to vest in the Treasurer appointed by the State Government and has to be managed by him. In this case, the petitioner truest is a private trust which is being managed by its Chairman and not by the Treasurer as envisaged under the Act. The statement of the petitioner before the Joint Sub Registrar to seek exemption from stamp duty amounts to playing fraud with the State authorities. The exemption was sought from stamp duty in a fraudulent manner. Therefore, in order to do justice, the delay can be condoned.

No ground is made out for interference.

Consequently, both the petitions are dismissed.

A photocopy of this order be placed in the file of other connected case(s).

31.01.2019.   **(JITENDRA CHAUHAN)**
SN   **JUDGE**

           Whether speaking/reasoned :   **Yes/No**
           Whether reportable :   **Yes/No**