

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. No. D-7615 of 2022

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on CMA No.32301/2022.
2. For orders on CMA No.32302/2022.
3. For hearing of main case.

03.05.2023.

Mr. Khawaja Shamsul Islam, Advocate for the Petitioner.

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**YOUSUF ALI SAYEED, J.** - The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, asserting a right for registration of a trust for construction, supervision, management, maintenance, etc. of a mosque in the name of “Jamia Masjid Al Siddiq” under the Charitable and Religious Trusts Act, 1920 (the “**1920 Act**”).

2. It has been pleaded that “on 09.07.2022, Petitioner No.1 went to the Office of the Respondent No.2/2-A, who is Assistant Director (Trust) Directorate of Industries, for registration of the ‘Subject Trust’ under the Charitable and Religious Trust Act, 1920, since the ‘Subject Trust’ is created for religious purpose. However, respondent No.2/2-A refused to register the ‘Subject Trust’ under the law mentioned above and prepared a new draft under the heading “RESTATED AND AMENDED TRUST DEED’, wherein he inserted the ‘Sindh Trust Act, 2020 and the Rules made therein’, and intend to register the ‘Subject Trust’ under the said law. Petitioner asked respondent No.2/2-A to register the ‘Subject Trust’ under the Charitable and Religious Trust Act, 1920, but he blatantly refused to do so”.

3. In that stated backdrop, it has been prayed *inter alia* that this Court be pleased:
  - i. To declare that the acts of respondent No.2/2-A of objecting and refusing to register the Subject Trust i.e. “Jamia Masjid Al Siddiq” situated at Park Lane, Block-5, Clifton, Karachi, under the Charitable and Religious Trusts Act, 1920 is illegal, unlawful, ultra vires, void and unconstitutional.
  - ii. To direct respondent No.2/2-A to re-draft the ‘Restated and Amended Trust Deed’, which he amended illegally, and get the amended Trust Deed registered under the aforesaid Charitable and Religious Trusts Act, 1920, read with Act No.XX of 1863.
  - iii. To direct respondent No.2/2-A to delete the names of the Old Trustees since they have expired and include/mention the name of petitioners as Trustees of the Trust in the name and style of “Jamia Masjid Al Siddiq”, and issue a new certificate of registration in the name of petitioners.
  
4. As it transpires, a perusal of the 1920 Act reflects that the same is not a registering statute and does not contain any section providing for registration. That being so, we had asked learned counsel at the very outset to satisfy us as to how any declaration or direction of the nature sought could conceivably be made. In response, he cited various provisions of the Stamp Act 1899 and the Income Tax Ordinance 2001 in an endeavour to show that those statutes recognized a charitable trust, but when again called upon to point out the particular provision of the 1920 Act under which registration of the trust could be undertaken as sought, he fell back on Section 3 thereof, which reads as follows:

**“3. Power to apply to the Court in respect of trusts of a charitable or religious nature.–** Save as hereinafter provided in this Act, any person having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate to obtain an order embodying all or any of the following directions, namely:-

(1) directing the trustee to furnish the petitioner through the Court with particulars as to the nature and objects of the trust, and of the value, condition, management and application of the subject-matter of the trust, and of the income belonging thereto, or as to any of these matters, and

(2) directing that the accounts of the trust shall be examined and audited:

Provided that no person shall apply for any such direction in respect of accounts relating to a period more than three years prior to the date of the petition.”

5. From a plain reading of the aforementioned Section, it is apparent that the same is on a different plane as it does not have any nexus with the subject of registration, but merely provides certain remedies to the beneficiaries of a trust. Indeed, the very preamble of the 1920 Act reflects that its underlying purpose is “to provide facilities for the obtaining of information regarding trusts created for public purposes of a charitable or religious nature, and to enable the trustees of such trusts to obtain the directions of a Court on certain matters, and to make special provision for the payment of the expenditure incurred in certain suits against the trustees of such trusts”.

6. As such, we are of the view that the Petition is misconceived and accordingly dismiss the same *in limine* along with the pending miscellaneous applications.

JUDGE

CHIEF JUSTICE

MUBASHIR