



CIVIL

Operation ASHA: Supreme Court Extends Section 92 CPC to Charitable Societies Functioning as Trusts

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Introduction

In a significant ruling that aligns statutory procedure with modern institutional realities, the Supreme Court in *Operation ASHA v. Shelly Batra & Ors.* (Civil Appeal No. 10048 of 2025) held that a society registered under the Societies Registration Act, 1860 may be treated as a “constructive trust” for the purposes of Section 92 of the Code of Civil Procedure, 1908 (CPC). This judgment affirms that the protective framework of Section 92 is not restricted to formal trusts, but extends to charitable organisations operating in fiduciary capacities regardless of their legal designation.

The ruling clarifies that when such a society receives donations for public purposes, manages those funds exclusively for charitable objectives, and is governed by a body that holds property in trust-like fiduciary terms, it assumes the character of a constructive trust. The Court thus reinforced the principle that substance must prevail over form in the regulation of charitable institutions.

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Factual Background

The appellant, Operation ASHA, is a non-profit society engaged in delivering tuberculosis treatment and healthcare services to underprivileged communities. Founded in 2005, it is registered under the Societies Registration Act, 1860. In 2020, co-founder Dr. Shelly Batra was removed from the Board of the society following allegations of impropriety.

Dr. Batra and her mother, also a board member, filed a suit under Section 92 CPC before the Delhi High Court, alleging mismanagement of donor funds, misconduct by senior executives, and violation of the society’s charter. The reliefs sought included restoration of Dr. Batra’s role, removal of certain board members, judicial supervision over the administration, and modification of the society’s bye-laws to prevent abuse of control.

The Single Judge granted leave under Section 92 CPC to institute the suit. This was affirmed by a Division Bench of the High Court. The matter was then appealed before the Supreme Court.

The Legal Issue

The principal question before the Court was whether a society registered under the Societies Registration Act and not expressly declared a trust could nonetheless be subject to proceedings under Section 92 CPC on the basis that it functioned as a constructive trust for public charitable purposes.

Supreme Court’s Analysis

The Court undertook a detailed examination of Section 92 CPC and its jurisprudential evolution. It reaffirmed that the provision serves to regulate public trusts—whether express or constructive that are created for religious or charitable purposes. The focus, the Court noted, must be on the functional character of the organisation and the fiduciary obligations it assumes, rather than on its formal registration or legal structure.

Constructive Trust: A Functional Concept

Rejecting the argument that only formal trusts fall within the ambit of Section 92, the Court held that where an institution:

- holds and manages property or funds that are clearly meant for public charitable purposes,
- is governed by a structure that prohibits profit distribution and mandates reinvestment in its stated objectives, and
- performs public-facing functions in reliance on third-party donations or grants,

such an institution assumes the character of a constructive trust.

Importantly, the Court held that a formal “entrustment” of property is not required to invoke Section 92. The mere fact that donations are received by a society and are intended to serve public purposes is sufficient to constitute fiduciary obligation.

“If that formality were a sine qua non, the very distinction between a ‘trust’ and a ‘constructive trust’ would stand obliterated,” the Court observed.

It further noted that the Memorandum and Articles of Association of Operation ASHA clearly demonstrated its charitable objects and the prohibition on profit-sharing, and that its Executive Committee held and managed all property and assets. These features established a fiduciary relationship consistent with trust principles.

Reliefs Under Section 92

The Court held that the reliefs sought in the suit including removal of individuals from management, appointment of independent oversight, and restitution of siphoned funds fell squarely within clauses (d) and (h) of Section 92(1), which cover directing accounts, inquiries, and settling a scheme.

The Court also reiterated that a suit under Section 92 is of a representative nature, brought in furtherance of public rights. The plaintiffs, being founding members and long-term stakeholders in the society’s administration, were held to have sufficient “interest” in the trust to satisfy the statutory requirement.

Purpose of Section 92 Leave

Emphasising the procedural design of Section 92, the Court described the requirement for leave to institute the suit as a filter mechanism to prevent vexatious or mala fide litigation against public trusts. However, once leave is granted and all statutory conditions are met, the maintainability of the suit cannot be questioned merely on formalistic grounds.

Tests for Maintainability Reaffirmed

In line with prior decisions, the Court reaffirmed that three conditions must be satisfied to invoke Section 92:

1. The institution must serve a public purpose of a charitable or religious nature;
2. There must be either a breach of trust or the need for court directions in administration;
3. The reliefs sought must fall within the scope of Section 92(1).

The Court found that all three conditions were fulfilled in the present case.

Conclusion

The Supreme Court’s judgment in Operation ASHA represents a significant doctrinal development in Indian trust law and civil procedure. By affirming that societies registered under the Societies Registration Act can, in appropriate circumstances, be treated as constructive trusts, the Court has closed a regulatory loophole that previously allowed charitable organisations to evade judicial scrutiny based on their legal form.

This judgment enhances transparency and accountability in the functioning of non-profit entities that manage public donations. It also empowers stakeholders such as donors, beneficiaries, and former office-bearers with a legal remedy under Section 92 to seek judicial oversight when fiduciary duties are compromised.

The Court’s interpretation ensures that legal protections attached to public charitable assets are not rendered illusory by technicalities of form, and that trust-like obligations are recognised and enforced wherever the public interest so demands.

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