

Smt. Surasaibalini Debi v. Phanindra Mohan Majumdar

Civil Appeal No. 158 of 1964

[1965] 1 SCR 861 | 1964-10-27

Whether income-tax evasion connected with a benami boarding-house arrangement barred the true owner's civil claim for recovery of possession, and whether later entrustment supplied an independent lawful basis for relief.

Income-tax Act, 1922 (historical evasion context; no tax assessment adjudicated)

Three-judge bench; majority judgment delivered by J. C. Shah, J., with a separate concurrence by N. Rajagopala Ayyangar, J. | P. B. Gajendragadkar, C.J. | J. C. Shah, J. | N. Rajagopala Ayyangar, J.

Historical cross-law decision, not a tax assessment ruling

Income-tax evasion was central to the illegality defence, but the Court decided a civil possession claim. The majority and concurrence used different reasoning; neither opinion determines present tax liability or current benami-law consequences.

01 FACTS OF THE CASE

Phanindra Mohan Majumdar, employed in the Court of Wards, was barred by service rules from carrying on business. He financed and managed the International Home boarding house but arranged for Prabhendra Mohan Gupta to appear as its nominal owner. When Majumdar left Calcutta for medical reasons in December 1948, he entrusted Gupta with possession and management on the understanding that the business would be returned. Gupta refused after Majumdar's return. The trial court and Calcutta High Court found Majumdar to be the true owner and ordered recovery. Gupta's successor argued in the Supreme Court that Majumdar's admitted filing of separate salary and business returns had reduced or escaped income tax and that a court should not assist him.

Source: [Primary judgment: facts, pleadings and findings / PDF pp. 2-5](#)

02 DISCUSSION BY THE HON'BLE COURT

The majority treated the original arrangement as a device to avoid the employer's service rules, not as a transaction whose object at inception was to defeat the Income-tax Act. It acknowledged that the plaintiff obtained a lower rate on business income and that his personal income escaped taxation, while stating that those consequences could expose him to statutory penalties or other proceedings. The civil claim nevertheless rested on proved title and a later entrustment of possession that carried no taint. Ayyangar, J. disagreed on the tax-purpose finding; in his view the benami purchase was designed from inception to evade income tax and a title-based claim would attract the illegality objection. He concurred in the result because the later entrustment and refusal supplied an independent possessory basis dissociated from the illegal transaction.

Source: [Primary judgment: majority and separate concurrence / PDF pp. 5-22](#)

03 JUDICIAL DECISION

The Court held that the respondent could recover possession. For the majority, the Income-tax Act was not the object of the original device and the later entrustment was lawful. The concurring judge would have rejected recovery based solely on title because of the tax-evasion object, but accepted the independent possessory claim arising from entrustment. The common ground was therefore narrower than either opinion viewed alone: the proven later entrustment supported recovery notwithstanding the disputed character of the original benami arrangement.

Source: [Primary judgment: majority conclusion and separate concurrence / PDF pp. 8-22](#)

04 OUTCOME / IN WHOSE FAVOUR

The appeal was dismissed and the decree restoring possession to the respondent remained in force. The Court made no order as to costs.

Source: [Primary judgment: operative result / PDF pp. 8 and 22](#)

05 AKHB REVIEW POINT

AKHB analysis: separate the illegality said to infect the original transaction from the legal basis actually used to obtain relief. Identify the purpose at inception, any tax concealment, the statutory consequence expressly left to tax or criminal authorities, and whether a later independent entrustment or possessory right supports the civil claim. Preserve the difference between the majority and concurrence. This 1964 decision is not authority that present benami arrangements or tax-evasion devices are enforceable, and it does not displace later tax, benami, civil or criminal legislation.

Source: [Primary judgment underlying the AKHB analysis / PDF pp. 5-22](#)

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 22 PDF pages; SHA-256 4f46590dd89031c12286ec7c141b64c94442ea425608d8f529697d9778af2b2e. Original bytes preserved. Reporter headnote is on physical page 1/SCR 861. The majority judgment delivered by J. C. Shah, J. begins on physical page 2/SCR 862 and ends on physical page 8/SCR 868. N. Rajagopala Ayyangar, J.'s separate concurring opinion begins on physical page 9/SCR 869 and ends on physical page 22/SCR 882. The complete report and both opinions were read.

Open cited source rendition

The complete 22-page reported judgment was read, including the reporter headnote, majority opinion, separate concurrence and operative order. The exact source hash and page count matched the frozen catalogue.

The source contains no assessment year, tax computation or identified charging provision; none is inferred.

Duplicate review found no published or archived identity match and no whole-file hash match. References elsewhere to benami or income-tax illegality do not establish identity with this judgment.

STATUTORY SCOPE

The judgment arose under the historical Income-tax Act, 1922 and did not decide an assessment, penalty or prosecution. It predates the Benami Transactions (Prohibition) Act, 1988 and later legislation. No automatic mapping to the Income-tax Act, 1961, the Income-tax Act, 2025, current benami law or current civil-law consequences is supplied.

LATER TREATMENT

Source checked 2026-10-13. not_verified. No comprehensive citator search or later-treatment review was performed. This note records the two opinions in the identified 1965 report and makes no claim about the current enforceability of benami arrangements, the present tax consequences of concealment, or later statutory change.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 22](#)

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