

Jodha Mal Kuthiala v. Commissioner of Income-tax, Punjab, Jammu and Kashmir, Himachal Pradesh and Patiala

Civil Appeals Nos. 1970-1973 of 1968

[1972] 1 SCR 639 | 1971-09-09

Historical property-income ownership: operative incidents vested in Pakistan evacuee-property Custodian.

Indian Income-tax Act, 1922: section 9(1)(iv) | Pakistan (Administration of Evacuee Property) Ordinance XV of 1949

2-judge bench; unanimous judgment delivered by K. S. Hegde, J. | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1952-53, 1955-56, 1956-57

Historical statutory setting

The ratio concerns section 9 of the repealed 1922 Act and Pakistan's 1949 evacuee-property regime; it is not a current title rule.

Fact and procedural limits

Apply the holding only within the facts, statutory text and procedural posture described in the primary report.

No current-law clearance

Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

01 FACTS OF THE CASE

A firm bought Lahore's Nedous Hotel with borrowings before Partition. After the property vested in Pakistan's Custodian, the firm returned nil annual value but claimed interest losses; the Tribunal allowed them and the High Court reversed (SCR pp.639-642; PDF pp.1-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Custodian could possess, collect income, control dealings and in defined cases sell or demolish, while the evacuee retained only a residual interest. Section 9 taxed property income; its owner was the person exercising operative rights in their own right, not a person unable to control or receive the income (SCR pp.642-650; PDF pp.4-12).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court held the assessee was not owner for section 9 and dismissed all four appeals without costs (SCR p.650; PDF p.12).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue: the claimed property-interest losses failed because operative ownership lay with the Custodian (SCR pp.649-650; PDF pp.11-12).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: separate residual or beneficial title from statutory powers to possess, control, alienate and receive income. The conclusion is provision-specific and does not make every custodian or receiver the tax owner (based on SCR pp.648-650; PDF pp.10-12).

Source: [Primary judgment: review point](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 12-page SCR source asset read in page-preserving text and visually inspected; adjacent-report boundaries were checked.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 12-page count match catalogue asset 1972_1_639_650; every page was read and visually inspected.

The source verifies the stated case identity, bench, statutory issue and operative order.

No exact source-hash, asset-ID, SCR-citation, docket or same-judgment match was found in the published corpus or reviewed archive.

STATUTORY SCOPE

The ratio concerns section 9 of the repealed 1922 Act and Pakistan's 1949 evacuee-property regime; it is not a current title rule.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.