

C.I.T. BIHAR & ORISSA, PATNA v. MAHARAJ KUMAR KAML SINGH

Civil Appeals Nos. 297 to 300 of 1970 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 3 SCR 522 | 1973-02-13

The impartible-estate ownership fiction had to receive effect in total-income computation, so income from property transferred to the holder's wife was clubbed under 1922 section 16(3)(a)(iii).

1922 Act: 9(4)(a) | 1922 Act: 16(3)(a)(iii) | 1922 Act: 9(2), first proviso | 1922 Act: 66(1)

3-judge bench | K. S. Hegde, J. | P. Jaganmohan Reddy, J. | H. R. Khanna, J.

01 FACTS OF THE CASE

The holder of an impartible estate granted his wife two Calcutta properties for life as supplementary maintenance. The judgment states that the indenture was dated 23 November 1950. There was no consideration and no agreement to live apart. For 1957-58 to 1960-61, the authorities included the property income in his total income under section 16(3)(a)(iii) of the Indian Income-tax Act, 1922. The High Court rejected that inclusion. A constitutional challenge was not pressed, leaving clubbing and its consequence for the annual value of his own residence in issue.

Source: [SCR523F-524F](#)

02 DISCUSSION BY THE HON'BLE COURT

An impartible estate could retain its joint-family character, but section 9(4)(a) deemed its holder the individual owner of estate property for property-income purposes. Without the transfer, that income would enter his total taxable income. The Court rejected treating the fiction as exhausted at the boundary of the property-income head: heads of income feed a single total-income computation, rather than separate taxes. Giving the fiction its intended effect therefore engaged the spouse-transfer rule. This did not authorise extending a fiction beyond its purpose. The Court also rejected an argument based on section 27(ii) of the 1961 Act, saying its wording made explicit what was implicit in the earlier provision.

Source: [SCR525F-527E](#)

03 JUDICIAL DECISION

The transferred properties' income was includible in the holder's total income under section 16(3)(a)(iii). Consequently, the then applicable first proviso to section 9(2) required the residential-house annual value to be computed at 10 percent of total income including that amount. The 1961 provision was used comparatively, not applied to these assessments.

Source: [SCR527B-G](#)

04 OUTCOME / IN WHOSE FAVOUR

The Revenue's appeals were allowed; referred questions 2 and 3 were answered for Revenue. The assessee had to bear Revenue's costs in both the Supreme Court and High Court; clubbing and the consequential old annual-value computation were restored.

Source: [SCR527G](#)

05 AKHB REVIEW POINT

Read a deeming provision with the computation it serves, while keeping its statutory purpose intact. For spouse transfers, verify the property's tax ownership and the consideration or separation exceptions. This ruling supplies neither a new constitutional decision nor authority to apply the historical 10 percent residential formula under a later enactment. K. D. Thakar later distinguishes cash gifts used to buy a house from direct property transfers; the checked 2025 ownership provision is section 25.

Source: [SCR524D,526A-527G](#); [Identity/version lines 38-58](#); [section 27 opening and clauses \(i\)-\(ii\), web lines 65-68.](#); [Section 21\(6\)-\(7\), physical 53/web2103-2110](#); [section 25 opening and clauses \(a\)-\(b\), physical55/web2163-2170.](#); [Title and section 1\(3\), physical1/web0-13](#); [section536\(1\),\(2\)\(a\)-\(c\), physical584-585/web24385-24399](#); [subsections\(3\)-\(4\), physical589/web24597-24601](#). [No full-section536 reading claimed.](#); [Identity and paragraphs1-9 personally read, especially paragraphs5-7/web69-90 distinguishing Kaml.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeals Nos. 297 to 300 of 1970 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Misc. Judicial Cases Nos. 480 to 483 of 1964 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

6-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified.

Open cited source rendition

The printed caption is KAML, not the commonly expanded Kamal; printed identity is preserved.

Headnote SCR 522 C gives indenture 23 November 1963, inconsistent with the assessed years; judgment SCR 523 F gives 23 November 1950 and controls the factual account.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 9(4)(a), 16(3)(a)(iii), 9(2), first proviso, 66(1), Constitution Article 14 challenge not pressed

The official 2019 (No. 1)-labelled section 27 opening and clauses (i)-(ii) expressly address spouse transfers of house property and impartible-estate ownership for sections 22-26. This is a bounded historical statutory comparison; no current section 64 or annual-value computation is certified from it.

Section 25(a)-(b), Finance Act 2026 edition, includes qualifying spouse transfers and the impartible-estate holder in owner for sections 20-24. Section 21(6)-(7) contains a separate own-residence annual-value framework, so the old 10% formula is not carried across.

The checked section 1(3) generally commences the 2025 Act on 1 April 2026. Section 536 preserves previous operation and accrued rights and keeps specified pre-commencement-year proceedings under the 1961 Act, subject to its savings. None of these comparisons retrospectively replaces the operative law of the judgment.

LATER TREATMENT

Source checked 2026-10-07. K. D. Thakar, 29 January 1979, distinguishes Kaml where the taxpayer gifted cash and the spouse bought the house. Clubbing alone did not make him a deemed house owner under then section 27(i). The distinction limits analogies from direct house transfers; it does not disapprove Kaml's impartible-estate holding.

Subsequent-history status remains unverified beyond any specific use recorded below.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: section 27, official Year 2019 \(No. 1\) rendition](#)

Identity/version lines 38-58; section 27 opening and clauses (i)-(ii), web lines 65-68. Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Section 21(6)-(7), physical 53/web2103-2110; section 25 opening and clauses (a)-(b), physical 55/web2163-2170. Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Title and section 1(3), physical 1/web0-13; section 536(1),(2)(a)-(c), physical 584-585/web24385-24399; subsections (3)-(4), physical 589/web24597-24601. No full-section 536 reading claimed. Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[K. D. Thakar v. Commissioner of Income-tax \(1979-01-29\)](#)

Identity and paragraphs 1-9 personally read, especially paragraphs 5-7/web69-90 distinguishing Kaml. Bounded judicial text personally read from a public third-party rendition; no court-original PDF or image validation claimed.

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