

Pushpa Devi v. Commissioner of Income Tax, New Delhi

Civil Appeal No. 1738 of 1971

[1978] 1 SCR 329 | 1977-08-30

Whether Pushpa Devi, a member but not a coparcener in the family considered by the Court, could blend her separate property into joint family property and, if not, whether her declaration nevertheless operated as an accepted gift affecting income attribution.

261

2-judge bench | Y.V. Chandrachud, J. | P.S. Kailasam, J.

Assessment years: 1963-64

Historical non-coparcenary status; partial gift success

For the 1 September 1961 declaration and AY 1963-64, blending failed but the accepted gift was confirmed; income was to be taxed accordingly and in accordance with law. Do not state that the appellant lost outright, that HUF income was exempt, or that all Hindu women remain non-coparceners. A separately checked post-2005 section 6 text contains daughter-coparcener rights; later section 64(2) has its own HUF-transfer rules. The source's Rs.20,865/Rs.21,544 discrepancy is unresolved. No costs order was made. Comprehensive later treatment, current succession/tax law and 2025 mapping are not verified.

01 FACTS OF THE CASE

Pushpa Devi joined a partnership with her father-in-law using her own assets on 19 June 1958; her minor son was admitted to its benefits. Each had one-third of profits; she and her father-in-law shared losses equally. The firm ran Nishat Talkies, Kanpur and Novelty Talkies, Lucknow with separate accounts. On 31 August 1961, Rs.67,284.57 stood to her credit for Nishat Talkies, comprising Rs.16,666.67 capital and Rs.50,617.90 current account (physical page 3/SCR 331 B-D).

Her sworn declaration of 1 September 1961 purported to abandon her separate interest in that sum, her one-third profit share and one-half loss share in favour of the HUF. For AY 1963-64, accounting year ending 31 August 1962, the facts record Rs.20,865 credited to the HUF, which filed a return and paid advance tax; she excluded it from her individual return with an explanatory note. The referred question and final blending conclusion instead state Rs.21,544. The source supplies no reconciliation, so the two figures are not equated (physical pages 3-4/SCR 331 E-332 G; page 9/SCR 337 F).

The assessing officer and first appellate authority rejected the claim; the Tribunal accepted blending; the Delhi High Court rejected it. On the section 261 appeal, an earlier three-judge order dated 24 September 1976 sought a supplementary statement on whether a gift had occurred. The Tribunal's 31 January 1977 finding was that she had made a gift which the HUF accepted. The present judgment decides both issues (physical pages 4-5/SCR 332 B-333 F).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court read Mallesappa as making coparcenary status fundamental to blending, not merely the limited character of the female owner's estate. In the historical position applied to this appellant, being a family member and absolute owner did not make her a coparcener; she could not use the blending doctrine. Authorities involving male members, or where capacity to blend had simply been assumed, did not determine her capacity (physical pages 5–8/SCR 333 F–336 H).

The Court explained blending as sharing property with others while retaining one's own relevant interest. It distinguished that from a surrender which excludes oneself from ownership. Its broader statements about women and male-line coparcenary describe the law being applied to this transaction and period; they cannot be presented as a timeless account of women's property rights (physical page 9/SCR 337 A–F).

Blending's failure did not dispose of the separate gift issue. There was no serious controversy over the supplementary finding that the declaration constituted a gift of the listed items to the HUF, and the Court confirmed it. Income from the gifted property was to be brought to tax consistently with that finding and in accordance with law. The Court did not declare that such income was tax-free or calculate a final refund (physical page 9/SCR 337 G–H).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The appeal failed on the first, blending question but succeeded on the second, gift question. The Tribunal's finding of an accepted gift was confirmed; the gifted property's income was to be taxed consistently with that finding and according to law. The appeal was allowed in part, with no order as to costs (physical page 9/SCR 337 F–H).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: Revenue on blending; appellant on the alternative gift issue

Appeal allowed in part; gift finding confirmed; taxation to follow that finding in accordance with law; no order as to costs

Final substantive distinction between historical blending capacity and an independently accepted gift; no computation of the ultimate tax amount

The appellant's non-coparcenary status and 1961 declaration are essential. No current universal female incapacity, tax-free HUF gift, modern clubbing result or succession entitlement is established.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Keep the juridical route separate from the result sought. A failed claim of blending did not nullify a proved, accepted gift. Record the date, the property transferred, the individual's actual status and the accepted finding before considering income attribution. The gift question was preserved through the supplementary statement; the final result was expressly partial success.

The historical language on women must carry a prominent limitation. A bounded official-hosted post-2005 section 6 text separately provides coparcenary rights for a daughter of a Mitakshara coparcener, subject to its qualifications. That does not decide this appellant's status or every woman's position in every family. Also, the separately reviewed 2011 section 64(2) text deals with specified HUF conversions/transfers after 31 December 1969. Neither later provision is an operative section of this 1961-declaration case, and the present note does not determine modern succession or clubbing.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Date, docket and historical family/partnership facts

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 329 heading; 330 H; 331 A–D

Source role: reported metadata and judicial text

2.

Topic: Declaration, AY, actual loss share and narrative income

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 331 E–332 A

Source role: judicial text

3.

Topic: Referred amount, section 261 route and supplementary finding

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 332 F–333 F

Source role: judicial text

4.

Topic: Mallesappa and capacity distinguished from ownership quality

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 334 D–335 G

Source role: judicial text

5.

Topic: Other precedents distinguished

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 336 A–H

Source role: judicial text

6.

Topic: Historical blending explanation, partial result and costs

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 337 A–H

Source role: judicial text

7.

Topic: Separate later statutory context: daughter-coparcener rule

Source url: [Open cited source](#)

Pdf pages:

Paragraphs: Complete section 6, particularly subsection (1), its proviso and subsection (5); official-hosted post-2005 text with no version year stated

Source role: official hosted statutory consolidation bounded check

8.

Topic: Separate later statutory context: HUF conversions/transfers

Source url: [Open cited source](#)

Pdf pages: 402; 403

Paragraphs: Printed 1.361–1.362; complete section 64(2), proviso and explanations

Source role: official hosted statutory compilation bounded check

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Y.V. Chandrachud, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (income attribution in a section 261 appeal, applying the then Hindu-law distinction between blending and gift)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Hindu-law blending doctrine, as understood and applied in this historical judgment.; Hindu Women's Rights to Property Act, 1937, sections 3(2) and 3(3), discussed in explaining the then property position.; Gift-tax Act, 1958, section 26(1), appears in discussion of Munshi Lal; this is not a Gift-tax Act assessment appeal.; Later Hindu Succession Act section 6 and Income-tax Act section 64(2) are separate editorial statutory comparisons, not provisions applied to decide this appeal.

SPECIFIED LATER JUDICIAL OR STATUTORY CHECKS AND THEIR LIMITS

1.

Kind: later statutory context

Status: bounded verified

Source urls: <https://www.incometaxindia.gov.in/w/section-6-178>

Finding: The reproduced post-2005 Hindu Succession Act section 6 gives a daughter of a coparcener Mitakshara coparcenary status and rights, subject to its detailed qualifications. The 1977 language cannot support a universal present statement that every Hindu woman is a non-coparcener.

Limit: Undated official-hosted consolidated text, entire section read; no authenticated amending Gazette, complete subsequent treatment or individual present succession outcome.

2.

Kind: later statutory context

Status: bounded verified

Source urls: [https://dor.gov.in/files/acts_files/IT%20Act%20\(English\)_0.pdf#page=402](https://dor.gov.in/files/acts_files/IT%20Act%20(English)_0.pdf#page=402);
[https://dor.gov.in/files/acts_files/IT%20Act%20\(English\)_0.pdf#page=403](https://dor.gov.in/files/acts_files/IT%20Act%20(English)_0.pdf#page=403)

Finding: 2011 section 64(2) contains a distinct rule for specified separate-property conversions/transfers to an HUF after 31 December 1969. The 1 September 1961 declaration in Pushpa Devi is earlier than that stated boundary.

Limit: Entire subsection and explanations read in the 2011 compilation; no modern transfer entitlement or current clubbing calculation is determined.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 9 PDF pages; SHA-256

47ac35242b6c670650b508267ec7b370222d7ab5779e18029ca3aeea676f2d1a. Original bytes preserved.

Judicial body begins physical page 3/SCR 331 A-B and ends physical page 9/SCR 337 H. Pages 1-2 contain reporter summary and appellate metadata; page 3 opens with counsel. No neighbouring judgment.

Open cited source rendition

The judgment date is 30 August 1977; the 1978 year is the report year.; Rs.20,865 is the narrative income figure; Rs.21,544 is printed in the referred question and final blending conclusion. No reconciliation is supplied.; The judicial body states one-half of losses, while the first-page headnote incorrectly gives one-third. The judicial body governs this note.; Section 261 is the expressly named 1961 Act route. No substantive charging, clubbing, transfer or HUF-definition section is invented as the Court's operative provision.; The broad gendered coparcenary language is historical and must not be presented as a present universal rule. The actual appellant was a wife/member of the HUF described.; The accepted gift and taxation-in-accordance-with-law direction are preserved; this is neither an unqualified Revenue victory nor a declaration of tax exemption.

AY 1963-64; previous accounting year ended 31 August 1962. Declaration was made on 1 September 1961. The assessment year is expressly stated at SCR 331 G.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Verify the applicable statutory version and procedural route separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. No comprehensive later-judgment review. Separate bounded statutory comparisons only: the official CBDT-hosted, undated post-2005 Hindu Succession Act section 6 text was read in full, including all five subsections, provisos and explanations; its daughter-coparcener rule prevents a universal current female-incapacity description. The Department of Revenue-hosted 2011 Income-tax Act compilation, section 64(2) in full at physical pages 402–403, contains separate HUF conversion/transfer clubbing rules with its express post-31 December 1969 transfer boundary and assessment-year language. These texts are not holdings in Pushpa Devi, not a complete amendment or judicial-treatment chain, and not 2026 law or 2025 Act certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

SHA-256: 47ac35242b6c670650b508267ec7b370222d7ab5779e18029ca3aeea676f2d1a

[official hosted statutory consolidation](#)

SHA-256: 872849468fa0101b905b0899aca4439b118311f8d63ff7bcb32887a8048a6b81

[official hosted statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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