

Late Nawab Sir Mir Osman Ali Khan v. Commissioner of Wealth Tax, Hyderabad

Civil Appeal No. 1763 (NT) of 1974

[1986] 3 SCR 1072 | 1986-10-21

Wealth tax: property sold without a registered conveyance remained attributable to the vendor, while the fixed Sarf-e-khas payment was a non-commutable annuity excluded from assets.

Wealth-tax Act, 1957: sections 2(e)(iv), 2(m) and 3 | Transfer of Property Act, 1882: section 53A | Constitution of India: Article 136 (effect of in-limine dismissal of special leave petition)

2-judge bench | R. S. Pathak, J. | Sabyasachi Mukharji, J.

Assessment years: 1957-58

Mixed result on two separate questions

Revenue prevailed on the property-inclusion question, while the assessee prevailed on the Sarf-e-khas annuity question. The appeal was allowed only in part.

Historical statutory and transaction setting

The decision concerns section 53A possession without registered conveyances and an accession-era payment arrangement. It supplies no current-law clearance for modern property, tax or pension arrangements.

01 FACTS OF THE CASE

For AY 1957-58, the Wealth-tax Officer included Rs.4,90,775 as the value of immovable properties for which the Nizam had received full consideration and delivered possession but had not executed registered sale deeds. The Tribunal treated the purchasers' section 53A protection and beneficial position as sufficient to remove the properties; the Andhra Pradesh High Court restored inclusion. A second question concerned the annual Rs.25 lakh Osmania-currency payment agreed when the Nizam's Sarf-e-khas administration and property income were taken over. The amount formed part of a Rs.1 crore annual arrangement also comprising a Rs.50 lakh privy purse and Rs.25 lakh for palace upkeep. The authorities capitalised the annual payment as wealth; the High Court held it commutable and therefore taxable.

Source: [Questions, assessment and payment arrangement: SCR pp.1078-1081](#)

02 DISCUSSION BY THE HON'BLE COURT

On the first question, the Court distinguished ownership terminology under the income-tax provisions from section 2(m)'s expression 'belonging to'. The purchasers had possession, had paid the price and could use section 53A as a shield against eviction, but the unexecuted conveyances left legal title with the assessee. After reviewing the incidents of ownership and competing authorities, the Court held that the property remained attributable to the assessee for wealth-tax purposes. It also clarified that dismissal of a special leave petition in limine does not affirm the decision challenged. On the second question, section 2(e)(iv) excluded a right to an annuity where its terms and conditions precluded commutation. The fixed annual payment in lieu of Sarf-e-khas income was an annuity. Although the letter contained no express standalone anti-commutation sentence, the Court read the terms in their accession-era context, alongside the privy purse and palace-upkeep payments, and inferred that the assessee had no right to commute it.

Source: [Property ownership and section 53A analysis: SCR pp.1081-1091](#); [Annuity and commutation analysis: SCR pp.1091-1094](#)

03 JUDICIAL DECISION

The property question was answered in the affirmative and for Revenue: the first limb of the assessee's appeal failed. The annuity question was answered in the negative and for the assessee: the Rs.25 lakh annual payment fell within section 2(e)(iv) and was exempt. The High Court judgment was modified accordingly; because success was divided, there was no order as to costs.

Source: [Answer on property issue: SCR p.1091](#); [Answer on annuity issue and final order: SCR p.1094](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue on the properties lacking registered conveyances; in favour of the assessee on the non-commutable Sarf-e-khas annuity. The appeal was allowed in part and the High Court order modified, with no costs order.

Source: [Final mixed disposition: SCR p.1094](#)

05 AKHB REVIEW POINT

AKHB analysis: separate legal title, contractual performance, possession and statutory attribution rather than treating them as interchangeable. For historical wealth-tax analysis, identify whether a registered conveyance existed on the valuation date and the precise protection available to the transferee. For an annuity or recurring-payment arrangement, examine the instrument as a whole, the commercial and constitutional setting, the right to commute and the consequence of any statutory exclusion. Do not describe this divided appeal as an unqualified victory for either side, and do not extend its historical result without checking later property-law amendments, repealed wealth-tax provisions and subsequent judicial treatment.

Source: [AKHB analysis based on both decided questions](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 23-page SCR report read. Editorial headnotes on PDF pages 1-7 were separated from the Court's judgment, which begins on SCR p.1078 / PDF p.7; the operative reasons were checked in the judicial text.

Open cited source rendition

Exact source bytes match catalogue asset 1986_3_1072_1094: SHA-256

9c66d6179f2a4f6d7e56a767e656dba06b3251cef05da3767e21adb0cbb04899; the PDF has 23 pages.

The date, bench and Civil Appeal No.1763 (NT) of 1974 appear on SCR pp.1072 and 1078. The catalogue identifier 1986INSC216 is not printed in the report and is not independently certified in this note.

The report has no numbered judicial paragraphs; SCR and physical PDF page pinpoints are used.

The judicial discussion at SCR p.1090 contains wording that, read alone, appears inconsistent with the Court's express conclusion at SCR p.1091. The note follows the express answer, the surrounding reasons and the operative result: the property question was answered for Revenue.

STATUTORY SCOPE

This is a historical Wealth-tax Act ruling for AY 1957-58. Its treatment of unregistered conveyances and annuities must be read with the then-applicable statutes and instruments; it is not a present-law title, wealth-tax or annuity classification opinion.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive subsequent treatment and present statutory applicability have not been checked; no current citator clearance is represented.

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AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

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