

## Income Tax Officer, Calicut v. Smt. N.K. Sarada Thampatty

Civil Appeal Nos. 778 and 781 of 1976

[1990] Supp. 1 SCR 473 | 1990-09-14

**Whether severance of family status through an agreement and preliminary civil partition decree, without the required division of property, ended the previously assessed HUF status for the relevant income-tax assessments.**

171, including its Explanation

Three-judge bench | K.N. Singh, J. | K. Jagannatha Shetty, J. | Kuldeep Singh, J.

Assessment years: 1967-68, 1968-69, 1969-70

### Tax-specific partition test and historical scope

The previously assessed HUF continued because the required property division was not proved. Civil severance or a preliminary decree did not by itself satisfy section 171. Preserve the alternative for assets incapable of physical division and do not treat this as a civil-title ruling or present partial-partition approval. The printed author is only Singh, J., and the source does not allocate all three years to the two appeal numbers. Comprehensive later treatment and 2025 mapping remain unverified.

### 01 FACTS OF THE CASE

The respondent had been assessed as a member and head of the family unit treated as an HUF. For AYs 1967-68 through 1969-70 she claimed a 1958 division of land other than forest land, a registered status-severance document of 21 February 1963 and a civil decree dividing the family interests into fourteen shares. A commissioner was appointed to divide the property by metes and bounds (physical pages 4–5).

The ITO rejected the claim because only a preliminary decree existed and no final or actual physical division had followed. The assessee produced no other evidence of completed partition. The Single Judge quashed the assessments and the Division Bench agreed, reasoning that the family's joint status and receipt of income had ended. Revenue appealed in two matters by certificate. The Supreme Court treated prior HUF assessment and absence of physical division as undisputed in the relevant inquiry (physical pages 5–6 and 9).

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

## 02 DISCUSSION BY THE HON'BLE COURT

Section 171 deems an already assessed HUF to continue unless partition is established through its statutory mechanism. When partition is claimed, the officer must inquire after notice to the members and record the relevant finding. The Explanation supplies a tax-specific meaning: physically divisible property must be physically divided; for property that does not admit physical division, such division as it admits is required. Merely separating status or dividing income is insufficient (physical pages 6–7).

The civil decree could be evidence, but did not displace that statutory test. Hindu-law arrangements capable of severing status do not necessarily constitute partition for income-tax assessment. In this case the preliminary decree and share allocation were not followed by the required physical division. The Court did not invalidate the decree for civil-law purposes or require an impossible physical division of every type of asset (physical pages 7–9).

The agricultural-income-tax authorities relied on below arose under a materially different provision without an equivalent Explanation. The Court followed Kaloomal's interpretation of section 171 instead. On the undisputed facts, the income retained its HUF character for assessment and the High Court should not have quashed the ITO's orders (physical pages 8–9).

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

## 03 JUDICIAL DECISION

Both Revenue appeals were allowed. The High Court's order was set aside and the respondent's writ petition dismissed, with no order as to costs. No fresh civil partition, ownership adjudication or numerical tax computation was ordered (physical page 9).

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

## 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Both appeals allowed; High Court order set aside; writ petition dismissed; no costs

Final section 171 interpretation and application to the disputed assessments

Previously assessed HUF and the relevant historical years; no invalidation of civil-law severance, no requirement of impossible division, and no certification of present partial-partition rules.

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

**05 AKHB REVIEW POINT**

Distinguish family status, an entitlement to particular shares and completed division of the income-producing property. Record what actually happened to each asset, its capacity for division and the officer's section 171 finding; a preliminary decree or income-sharing arrangement is not a substitute for the statutory test.

Retain the alternative for property that cannot be physically divided and the premise of an HUF already assessed as such. The decision concerns the stated historical assessment years. It should not be used to promise recognition of any later partial partition or to resolve civil title outside tax assessment. Comprehensive later treatment and current-law/2025 mapping remain unverified.

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

**PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES**

1.

**Topic:** Identity, bench, delivery line and two appeals

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 4

**Paragraphs:** Unnumbered judicial text; physical PDF pages are one-based

**Source role:** reported metadata and judicial text

2.

**Topic:** Claimed instruments and lower-court history

**Source url:** [Open cited source](#)

**Pdf pages:** 4; 5; 6

**Paragraphs:** Unnumbered judicial text; physical PDF pages are one-based

**Source role:** judicial text

3.

**Topic:** Section 171 mechanism and both limbs of the Explanation

**Source url:** [Open cited source](#)

**Pdf pages:** 6; 7

**Paragraphs:** Unnumbered judicial text; physical PDF pages are one-based

**Source role:** judicial text

4.

**Topic:** Agricultural-tax distinction and governing precedent

**Source url:** [Open cited source](#)

**Pdf pages:** 8; 9

**Paragraphs:** Unnumbered judicial text; physical PDF pages are one-based

**Source role:** judicial text

5.

**Topic:** Undisputed facts and final allowance without costs

**Source url:** [Open cited source](#)

**Pdf pages:** 9

**Paragraphs:** Unnumbered judicial text; physical PDF pages are one-based

**Source role:** judicial text

## JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Singh, J. (as printed; delivery line does not expand the name)

## ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

## SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 9 PDF pages; SHA-256

590cf50742c630430bf42f592a7a34dae82368d35525ffad1976b888c15c34ed. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–9; preceding editorial material separated; no adjacent judgment.

[Open cited source rendition](#)

The delivery line and running heads say only Singh, J.; both K.N. Singh and Kuldeep Singh are on the printed bench. The note does not infer the expanded author solely from judge order or ingestion metadata.; The three assessment years are addressed in two civil appeals; the source does not allocate an individual appeal number to every year.; The 1958 agreement, 1963 status document and civil preliminary decree are the assessee's asserted basis; the operative finding is absence of the required physical division. The note does not invent a reconciliation for individual land parcels.; The cited agricultural-tax report appears as 83 ITR 108 in the editorial portion and 33 ITR 108 in the judicial passage; the underlying report was not independently checked. The distinction rests on the statutes described, not a corrected citation.; The quoted Explanation retains a specific rule for property not admitting physical division. General shorthand about metes and bounds must not erase it.

## STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

## LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment search is certified. Any actually checked later judgment or statute is expressly identified in this note.

## IDENTIFIED SOURCE LINKS

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

SHA-256: 590cf50742c630430bf42f592a7a34dae82368d35525ffad1976b888c15c34ed

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