

C.B. Gautam v. Union of India and Others

Transferred Case No. 26 of 1987 / Civil Writ Petition No. 2821 of 1986 (front matter; judicial opening prints 1989)
[1992] Supp. 3 SCR 12; [1993] 1 SCC 78 (as cited in Nandlal) | 1992-11-17

Whether historical Chapter XX-C conferred arbitrary compulsory-purchase power, what hearing and reasons were required, how third-party property interests were protected, and how relief and fresh proceedings should operate.

Chapter XX-C (historical) | 269UA | 269UC | 269UD(1)–(2) | 269UE(1)–(6) | 269UF | 269UH | 269UN | 269UO | 269UP (later bounded statutory applicability check only)

Five-judge Constitution Bench | M.H. Kania, C.J. | J.S. Verma, J. | S.C. Agrawal, J. | Yogeshwar Dayal, J. | Dr. A.S. Anand, J.

Assessment years: See the source-scope notes; no year inferred.

Historical purchase power with safeguards and limited retrospective relief

Read the 17 November 1992 judgment together with the 27 November clarification. The undervaluation inference is rebuttable; hearing and communicated reasons are required. Encumbrance protection depends on the agreed sale interest. Fresh proceedings remained possible, 9 per cent interest was conditional, and specified completed purchases were protected. The source has a writ-year conflict. Section 269UP later excludes transfers effected on or after 1 July 2002; no present-law safe harbour, automatic refund or comprehensive later-treatment certification is supplied.

01 FACTS OF THE CASE

The intending purchaser agreed to buy a Delhi residential property comprising leasehold land and its building for Rs 16 lakh, with a further Rs 3.4 lakh payable to the Delhi Development Authority for unearned increase. The parties furnished their agreement and Form 37-I when Chapter XX-C became applicable in the area. The authority obtained a valuation report and served a compulsory-purchase order on the purchaser on 15 December 1986. No specific reasons accompanied that order, and no opportunity to show cause had been given (physical pages 12–13 and 40–41; SCR 23–24 and 51–52).

The writ petition challenging the scheme and purchase order was transferred to the Supreme Court as a test case. After its main judgment of 17 November 1992, the Union sought clarification for court cases affected by stays and for matters still before the authorities. The source contains that separate supplemental order of 27 November 1992 (physical pages 1, 12 and 42–44).

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

02 DISCUSSION BY THE HON'BLE COURT

Chapter XX-C targeted attempted tax evasion through significant undervaluation. The legislative history, departmental instruction and affidavits supplied limits on the purchase power. In the Court's formulation, when apparent consideration was below fair market value by 15 per cent or more, the authority could draw a rebuttable inference of attempted tax evasion. Written reasons still had to relate to that statutory object. The departmental material also required an allowance for probable valuation error rather than mechanical use of the percentage; it described categories not ordinarily purchased, rather than universal statutory exemptions (physical pages 25–28; SCR 36–39).

The Court read a reasonable opportunity to show cause into Chapter XX-C, particularly for the intending seller and purchaser. A tight time limit permitted a limited or summary inquiry, not denial of a hearing. Urgent need for money, title disputes, a subsisting lease or another genuine circumstance could explain a price below market value. Recording reasons was no substitute for hearing the affected parties. Reasons had to appear in the order or be served separately with it, both to enable challenge and to deter arbitrary action. The contrary Karnataka view in *Vidyavati Kapoor Trust* did not state the correct law (physical pages 30–35; SCR 41–46).

The Court struck the words free from all encumbrances from section 269UE(1) as violating Article 14; they could not be saved by a reading contrary to their express meaning. Government acquired the interest offered for sale, subject to subsisting encumbrances and leases except those the agreement required to be discharged. Possession provisions in section 269UE(2)–(3) were correspondingly limited for protected holders. If the agreement required a sale free of those interests, the holders could claim their value from the purchase consideration. Monthly tenancies could continue where vacant possession or termination was not promised, although the judgment explained the loss of rent-law protection on Central Government ownership and denied compensation for that loss. Bogus interests could be disregarded; a wider express anti-defeat amendment was left to Parliament (physical pages 35–40; SCR 46–51).

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

03 JUDICIAL DECISION

The purchase order was set aside for absence of a show-cause opportunity and communicated reasons. Chapter XX-C survived subject to the Court's construction and the severance concerning encumbrances. The transferred writ petition was allowed to that extent, without costs; the Court did not finally determine the property's fair market value or prohibit a fresh purchase (physical pages 38–42).

For Gautam, Form 37-I was deemed submitted on the signing date of the main judgment, 17 November 1992. The authority could, if it thought fit, promptly give notice, afford a reasonable opportunity, conduct an inquiry if called for, and make a fresh purchase order. If such an order was made, the Central Government had to pay the intending seller the apparent consideration plus 9 per cent annual interest from the date the impugned order was made (physical pages 41–42; SCR 52–53).

The judgment did not invalidate completed purchases where possession had been taken and compensation paid and accepted without protest; it likewise protected purchases by third parties at public auction (physical page 42; SCR 53).

The 27 November supplemental order prescribed separate timing for other cases: the section 269UD(1) two-month period was to be reckoned with reference to disposal of each pending Supreme Court or High Court matter, or to vacation of a stay inhibiting further proceedings. For matters at various stages before authorities and not in court, Form 37-I was deemed filed on 17 November 1992. Both clarifications were expressly made part of the main judgment (physical pages 42–44; SCR 53–55).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Purchaser on the challenged order; Chapter XX-C retained with constitutional safeguards and limited retrospective relief

Transferred writ petition allowed to the stated extent, no costs; supplemental implementation directions added on 27 November 1992

Constitutional and procedural holdings final in this decision; fresh purchase proceedings permitted subject to safeguards

No final valuation, automatic cancellation of all past purchases, unconditional interest or refund entitlement, or current property-purchase safe harbour.

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

05 AKHB REVIEW POINT

Keep four questions separate: the statutory basis for a proposed purchase, the evidence permitting an inference of evasion, the opportunity to rebut it, and the reasons accompanying the actual order. A valuation gap permits scrutiny under this historical scheme; it does not conclusively prove concealed consideration. The contract's treatment of leases and encumbrances also matters because the pre-emptive purchase cannot simply enlarge what was offered for sale.

Relief must be read with its limits. Identify whether the matter was Gautam itself, a pending court case, a vacated-stay case, an authority-stage matter, or a protected completed transaction. Preserve the conditional nature and starting point of the 9 per cent direction. Do not turn the supplemental reckoning rule into an invented calendar deadline: the source quotes the original section's end-of-month limitation and then supplies the particular reckoning directions (physical pages 22 and 41–44).

The Income Tax Department's text of Finance Act 2002, section 100, verifies that section 269UP made Chapter XX-C inapplicable to transfers effected on or after 1 July 2002. This bounded later statutory point keeps the note historical; it does not certify present law or a 2025 Act correspondence.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Separate main and supplemental dates; identity; printed writ-year conflict

Source url: [Open cited source](#)

Pdf pages: 1; 12

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial opening

2.

Topic: Agreement, consideration and service of purchase order

Source url: [Open cited source](#)

Pdf pages: 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Original section 269UD limitation wording

Source url: [Open cited source](#)

Pdf pages: 22

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Purpose, departmental limitations and rebuttable inference

Source url: [Open cited source](#)

Pdf pages: 25; 26; 27; 28

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Hearing, rebuttal and communication of reasons

Source url: [Open cited source](#)

Pdf pages: 30; 31; 32; 33; 34; 35

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Encumbrance severance, possession, monthly tenancies and bogus interests

Source url: [Open cited source](#)

Pdf pages: 36; 37; 38; 39; 40

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Invalid order and Gautam-specific deemed filing

Source url: [Open cited source](#)

Pdf pages: 40; 41

Paragraphs: Unnumbered judicial text

Source role: judicial text

8.

Topic: Conditional interest, protected completed transactions and main disposition

Source url: [Open cited source](#)

Pdf pages: 42

Paragraphs: Unnumbered judicial text

Source role: judicial text

9.

Topic: Supplemental order: court cases, stays and authority-stage matters

Source url: [Open cited source](#)

Pdf pages: 42; 43; 44

Paragraphs: Supplemental order, paragraphs 1–4

Source role: supplemental judicial order

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

M.H. Kania, C.J. (main judgment; supplemental order has no separately stated author)

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

1.

Kind: bounded statutory applicability check

Title: Finance Act, 2002, section 100 inserting section 269UP

Url: [Open cited source](#)

Source authority: Income Tax Department, Government of India

Reviewed at: 2026-10-04T17:06:52.658655+00:00

Read boundary: Complete displayed section 100 and inserted section 269UP, including commencement date; page headings identify Finance Acts, year 2002.

Finding: Section 269UP makes Chapter XX-C inapplicable to, or in relation to, transfers of immovable property effected on or after 1 July 2002.

Scope limit: This is a bounded historical non-application check, not a comprehensive statutory update, a statement that Chapter XX-C was wholly omitted, or a mapping to the Income-tax Act, 2025.

MAIN JUDGMENT DATE AND SEPARATE SUPPLEMENTAL ORDER

Main judgment 17 November 1992; supplemental clarification 27 November 1992. Both appear on the source cover. The editorial note on physical page 12 expressly attributes the clarifications to 27 November, and the supplemental judicial text on physical pages 42–44 repeatedly identifies the main judgment as 17 November.

SEPARATE SUPPLEMENTAL ORDER DATES

1992-11-27

SPECIFIED RELATED REVIEWED DECISIONS AND THEIR LIMITS

1.

Id: sc-1997-04-03-nandlal-tejmal-kothari-gautam-following

Relationship: Later order expressly follows selected Gautam passages; targeted original-source comparison only

Source url: [Open cited source](#)

SOURCE & VERIFICATION

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

Identified source rendition: 44 PDF pages; SHA-256

a0086d310dbbccbb4505bf15d6297694fc08d759d7ac80217daa7dc8505bdda. Original bytes preserved.

All 44 physical pages/SCR 12–55 read. Editorial headnote through physical page 12 distinguished. Main judgment begins physical page 12/SCR 23 and ends physical page 42/SCR 53 at no costs. Supplemental order starts on the same page under ORDER and ends physical page 44/SCR 55; no adjoining decision.

[Open cited source rendition](#)

The source combines the main judgment of 17 November 1992 with a separate supplemental order of 27 November 1992. The supplement begins on physical page 42, immediately after the main disposition; it must not be dated 17 November merely because the corpus index uses that date.; Front matter on physical page 12 identifies Civil Writ Petition 2821 of 1986; the judicial opening on the same page prints 2821 of 1989. Physical page 13 gives a transfer-order date of 20 September 1989 while the transferred-case number is of 1987. These reported details are preserved without an invented reconciliation.; The main judicial text is unnumbered in this SCR rendition. Paragraph numbers 31, 42 and 50 appearing in Nandlal belong to its quoted rendition and are not silently assigned to these pages.; The departmental discussion on physical page 26 uses fair market value at least 15 per cent above apparent consideration; the Court's formulation on physical pages 27–28 and 33 refers to apparent consideration below fair market value by 15 per cent or more. No denominator-based calculation or universal tolerance is invented from these differing formulations.; The 9 per cent interest direction is conditional on a fresh compulsory-purchase order and runs from the date the impugned order was made. The source states service on 15 December 1986 but does not separately specify the making date; no distinct interest-start date is invented.; Nandlal is independently read here only for its express later application of selected Gautam passages. That targeted cross-check is not comprehensive later-treatment verification.

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. Comprehensive subsequent judicial and statutory treatment has not been verified. Nandlal Tejmal Kothari, 3 April 1997, was independently read as a bounded following disposition; it quotes Gautam on reasons, conditional interest and pending-case timing. The separately identified section 269UP check does not certify current law or a 2025 Act mapping. Other cited precedent originals were not independently checked in this batch.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 44](#)

SHA-256: a0086d310dbbccbb4505bf15d6297694fc08d759d7ac80217daa7dc8505bdda

[Related note: Sri Nandlal Tejmal Kothari v. The Inspecting Assistant Commissioner of Income Tax and Others](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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