

Smt. Sarifabibi Mohmed Ibrahim and Others v. Commissioner of Income Tax, Gujarat

Civil Appeal Nos. 4001–4004 (NT) of 1982

[1993] Supp.2 SCR 264 | 1993-09-14

For AY 1970-71 and land transferred in May 1969, did the whole factual setting establish agricultural land eligible for the historical capital-gains protection, despite the housing-sale agreement, non-agricultural-transfer permission and prolonged cessation of cultivation?

2(14), including historical clause (iii) and the Finance Act 1970 sub-clause context | 47(viii), historical protection for transfers before 1 March 1970 | 256(1)

Two-judge bench | B.P. Jeevan Reddy, J. | S.P. Bharucha, J.

Assessment years: 1970-71; the relevant sale deeds were executed in May 1969

May 1969 transfers; cumulative facts and conflicting source details

This is a fact-specific agricultural-land decision for AY 1970-71 concerning May 1969 transfers and the historical pre-1 March 1970 protection. Municipal location or a housing buyer alone is not decisive. The report prints inconsistent area figures and permission dates; no residual area or silent correction is supplied. Section 63 transfer permission and section 65 change-of-use permission must remain distinct, and the Court found no cultivation after 1964-65. The 1996 Gemini Pictures check is bounded; comprehensive later treatment, current law and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The appellant co-owners brought four appeals against the Gujarat High Court's answer to a section 256(1) reference for AY 1970-71. Their family plot at Navagaon village was also within Surat municipal limits, about one kilometre from Surat railway station. The main narrative gives its total area as 30,885 square yards and records purchase by an ancestor on 1 February 1934 for Rs 5,425. After a later inheritance, the assessee's father died on 10 February 1966. A portion had been converted for a chawl in 1958; the case concerned the remaining portion, still entered as agricultural land with land revenue paid (physical pages 3–4 / SCR 266–267).

On 15 March 1967 the assessee agreed to sell the land to a housing co-operative society. The Supreme Court's own narrative records applications on 12 June 1968 and 19 March 1969 under section 63 of the Bombay Tenancy and Agricultural Lands Act, 1948, permission on 22 April 1969, and sale deeds between 9 and 30 May 1969. The purchaser later applied under section 65 of the Bombay Land Revenue Code for non-agricultural use and began construction within three days of the relevant sale. The land was sold for Rs 23 per square yard. The report contains conflicting printed area and permission-date descriptions in the referred question and quoted High Court passage, so this note does not calculate an exact disputed residual area or silently reconcile those discrepancies (physical pages 4–6 and 14 / SCR 267–269 and 277).

The ITO and AAC rejected the agricultural-land claim. Two Tribunal members differed; the third member's view gave the assessee relief. The High Court then answered Revenue's reference against the assessee. Before the Supreme Court the assessee relied on revenue entries, land-revenue payment, past and alleged resumed cultivation, adjoining agricultural land, lack of actual non-agricultural use by them and absence of another income source. Revenue relied on location, housing-sale arrangements, price, permissions and the town-planning context. The Supreme Court resolved the disputed 1968-69 cultivation premise rather than accepting the Tribunal's inconsistent recital at face value (physical pages 5–7 and 13–14 / SCR 268–270 and 276–277).

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

02 DISCUSSION BY THE HON'BLE COURT

The date boundary mattered. Section 47(viii), inserted by the Finance Act 1970 with effect from 1 April 1970, protected transfers of agricultural land in India before 1 March 1970. The Court also described the contemporaneous municipal-area changes to section 2(14)(iii), but held that these May 1969 sales did not fall within their mischief. If the land were agricultural, its municipal location would not by itself defeat the relevant historical protection. The case therefore turned on actual agricultural character, not an automatic municipal-location rule (physical page 7 / SCR 270).

Whether land is agricultural is essentially factual. The Court required a cumulative evaluation of relevant evidence for and against the claim, rather than a single conclusive test. It applied the approach in the Court of Wards/Begumpet Palace authority: actual condition and intended agricultural purpose matter, mere potential agricultural use is insufficient, and agricultural revenue assessment is relevant but not conclusive. The eight indicators reproduced from the earlier High Court decision were not all approved; the Supreme Court had rejected the especially broad approach and remitted that earlier case. The present judgment also reproduced Siddharth J. Desai's thirteen non-exhaustive indicators and discussed V.A. Trivedi's attention to agricultural use over a reasonable period before and intended use after the relevant date (physical pages 8–13 / SCR 271–276).

Those indicators concern revenue classification and revenue payment; actual or ordinary use; duration versus temporary use; agricultural return relative to investment; section 65 conversion permission, its timing and extent; cessation and any alternative use; cultivation history and intention; surroundings; plotting and other development; earlier non-agricultural sales; section 63 permission and buyer/purpose; sale by yardage or acreage; and whether price and yield reflect an agricultural transaction. They are evaluative guidelines, not thirteen mandatory conditions or an arithmetic score (physical pages 10–12 / SCR 273–275).

The Supreme Court accepted cultivation through agricultural year 1964-65 and absence of cultivation in 1965-66, 1966-67 and 1967-68. For 1968-69 it examined the third member's mutually inconsistent findings: Tapti floods had made the land unusable for a period, the land remained uncultivated from October 1968 through April 1969, and sale preceded the next June sowing. Those facts negated the asserted raising of loni fodder grass during that year. The Court accordingly found no cultivation even in 1968-69 (physical page 13 / SCR 276).

It weighed the favourable facts expressly: agricultural entries, land-revenue payment, cultivation through 1964-65, adjoining agricultural lands, no proved non-agricultural use by the assessee and no other income source. Against them were four years without cultivation, proximity to the railway station and municipal setting, a housing-sale agreement, the sellers' section 63 applications and permission for a non-agricultural transfer, rapid sale thereafter, yardage pricing and prompt building activity. Cumulatively those adverse facts prevailed. Although the sellers had not obtained section 65 conversion permission, their section 63 conduct evidenced non-agricultural intention; the Court did not treat the two permissions as the same (physical pages 14–15 / SCR 277–278).

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

03 JUDICIAL DECISION

The Court held that this land was not agricultural at the time of the May 1969 sales, upheld the Gujarat High Court's answer and dismissed the assessee's four appeals. The sale income was not exempt from capital-gains tax on the agricultural-land ground. There was no order as to costs (physical page 15 / SCR 278).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Civil Appeal Nos. 4001–4004 (NT) of 1982 dismissed; no costs

Reasoned final application of historical agricultural-land character test to AY 1970-71 and the May 1969 transfers

Cumulative fact-specific finding. Neither municipal location, a housing-society purchaser, revenue records, a high price nor the absence of section 65 permission alone is made conclusive. No current municipal-distance rule or later statutory mapping is certified.

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

05 AKHB REVIEW POINT

Build the evidence record around the relevant transfer date. Reconcile crop and revenue records with actual cultivation, cessation periods, physical conditions, sale agreements, seller and buyer permissions, price basis, surroundings and intended use. Show the favourable evidence as well as the adverse evidence; a revenue entry alone is insufficient, but a housing buyer or municipal address alone is not the holding either. Keep section 63 transfer permission separate from section 65 change-of-use permission. Do not reproduce the thirteen factors as a checklist in which every item must be satisfied.

In the bounded later primary check, Commissioner of Income Tax, Madras v. Gemini Pictures Circuit Pvt. Ltd., decided on 27 March 1996, expressly invoked Sarifabibi's cumulative method. It treated banana/vegetable cultivation on the facts of a developed Mount Road, Madras property as stop-gap use and allowed Revenue's appeals. The complete eight-page report was read, with reliance limited to physical pages 6–8 / SCR 1013–1015. This later application reinforces evaluation of the whole factual setting; it does not establish that all city land or all temporarily cultivated land must be non-agricultural. The later source's own case facts and amounts are not substituted for Sarifabibi's.

For reliance on the original case, retain both the statutory time boundary and the source warning. The judicial account and its quoted material differ in area figures and some permission dates. Their inconsistency should be disclosed, not resolved by an unverified calculation or an assumed correction.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES**1.****Topic:** Identity, bench, author and four-appeal caption**Source url:** [Open cited source](#)**Pdf pages:** 1; 3**Paragraphs:** Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.**Source role:** reported metadata and judicial text**2.****Topic:** AY 1970-71, May 1969 transfers and factual chronology**Source url:** [Open cited source](#)**Pdf pages:** 3; 4; 5; 6**Paragraphs:** Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.**Source role:** judicial text**3.****Topic:** Statutory transition and pre-March 1970 protection**Source url:** [Open cited source](#)**Pdf pages:** 7**Paragraphs:** Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.**Source role:** judicial text**4.****Topic:** Cumulative evaluation and Court of Wards authority**Source url:** [Open cited source](#)**Pdf pages:** 8; 9; 10**Paragraphs:** Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.**Source role:** judicial text**5.****Topic:** Thirteen non-exhaustive indicators and quoted Trivedi discussion**Source url:** [Open cited source](#)**Pdf pages:** 10; 11; 12; 13**Paragraphs:** Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.**Source role:** judicial text**6.****Topic:** Supreme Court resolution of actual cultivation through 1968-69**Source url:** [Open cited source](#)**Pdf pages:** 13**Paragraphs:** Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.

Source role: judicial text

7.

Topic: Competing factual factors and separate permission significance

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.

Source role: judicial text

8.

Topic: Operative dismissal and no-costs order

Source url: [Open cited source](#)

Pdf pages: 15

Paragraphs: Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.

Source role: judicial text

9.

Topic: Bounded later application and express Sarifabibi reliance

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Exact physical PDF pages; printed SCR pages are supplied in the note. Judicial paragraphs are unnumbered.

Source role: bounded later judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 15 PDF pages; SHA-256

91570176ff79750163768d838e6babd2bc0ced0a9e568d0dcd9cef8941c7e916. Original bytes preserved.

Complete judicial text physical pages 3–15 / SCR 266–278; editorial headnote physical pages 1–3 separated. AY 1970-71 and May 1969 transfers, competing facts, source discrepancies, quoted precedent, Supreme Court cultivation finding and no-costs dismissal checked.

[Open cited source rendition](#)

AY 1970-71 does not mean the land was transferred after the statutory transition: the deeds were in May 1969. Section 47(viii)'s pre-1 March 1970 boundary is material.; The referred question prints 3085 square yards and an exclusion of 2607 square yards on physical page 3, while the main narrative gives total 30,885 and converted portion 2067 on page 4. The quoted High Court passage gives 2607 again. No corrected residual area is inferred.; The Supreme Court narrative at physical pages 4 and 14 records June 1968/March 1969 applications and 22 April 1969 permission; the quoted High Court passage on page 5 instead records August 1968 and 24 February 1969, with an inconsistent relative-time description. The same quote calls section 63 a Land Revenue Code provision, whereas the Court's own narrative identifies the Bombay Tenancy and Agricultural Lands Act.; The printed narrative occasionally says Land Revenue Court where the identified enactment is the Bombay Land Revenue Code; the note uses the enactment's identity without altering the PDF.; The Court resolved the uncertain 1968-69 Ioni-grass claim against actual cultivation. The quoted High Court shorthand about cessation since 1964-65 must not displace the Supreme Court's express finding of cultivation through 1964-65.; The Court of Wards earlier-case indicators and V.A. Trivedi facts are quoted precedent material, not findings about these co-owners. The broad earlier High Court test was not wholly approved.; Neither municipal location, revenue classification, yardage price, purchaser identity nor lack of section 65 permission is alone decisive. Section 63 and section 65 are distinct permissions.; Gemini Pictures is a bounded later factual application only. Its headnote's high-price proposition summarizes distinguished authorities and is not turned into a universal rule. Comprehensive later treatment, current law and 2025 mapping remain unverified.

The operative 1961 Act question is agricultural-land character under historical section 2(14), read with section 47(viii) and the May 1969 transfer dates. Section 256(1) supplies the reference procedure. The Court discusses capital-gains taxation but does not expressly identify section 45 in its own 1993 text; it is not separately tagged. Bombay Tenancy and Agricultural Lands Act section 63 and Bombay Land Revenue Code section 65 are distinct factual permissions, not Income-tax Act sections. Wealth-tax and agricultural-income authorities are discussed as authorities, not assessed under those statutes here.

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 treatment remains unverified. Only the independently read 27 March 1996 Gemini Pictures judgment is relied on as a bounded later application of cumulative agricultural-land evaluation. It is not a present-law or urban-land exemption certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 15](#)

SHA-256: 91570176ff79750163768d838e6babd2bc0ced0a9e568d0dcd9cef8941c7e916

[bounded later judgment - PDF pages: 8](#)

SHA-256: 4c9226e399ffa312d4b1a699ddd6f5ad858f89726994179e69d3c6df927a4cce

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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.