

Janaki S. Menon and Others v. Dr. V.R.S. Krishnan and Others

Civil Appeal Nos. 13216-13217 of 1996

[1996] Supp. 7 SCR 207 | 1996-10-04

Recovery of income-tax and other public dues from an undivided estate: a consent-based civil-court auction was not invalid for want of separate section 222 proceedings by the Tax Recovery Officer.

Income-tax Act, 1961: section 222 and Second Schedule | Code of Civil Procedure, 1908: Order XXI, rule 90

2-judge bench | K. Ramaswamy, J. | S. P. Kurdukar, J.

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

Consent-based civil execution, not ordinary tax recovery

The Tax Recovery Officer had not invoked section 222. The Court upheld the executing court's action because the parties had agreed to recovery from the estate within the partition proceedings.

Estate names differ in the report

The opening refers to dues owed by late V. Madhava Raja, while the tax certificate and later discussion refer to the estate of Venugopala Verma Raja. No unverified identity equivalence is inferred.

01 FACTS OF THE CASE

The report opens by stating that late V. Madhava Raja owed income-tax, wealth-tax and agricultural income-tax dues. During a partition suit over the estate, the State sought attachment. By agreement, the civil court avoided attachment and directed Joint Commissioners to recover and remit the Government dues. Later execution proceedings identified properties for sale, including Devi Vilas Palace. After earlier private-sale efforts failed, a public auction on 15 June 1992 produced a bid of Rs.31,15,000. The appellants sought to set aside the sale under Order XXI rule 90, arguing among other things that the dues had been cleared. A Tax Recovery Officer certificate dated 6 December 1995 instead recorded Rs.5,15,824 still recoverable from the estate of Venugopala Verma Raja.

Source: [Partition, consent recovery, auction and outstanding certificate: SCR pp.208-209](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 222 and the Second Schedule prescribe the procedure when the Tax Recovery Officer recovers arrears from an assessee or estate. Here, that officer had not commenced recovery under the Act. When the State first moved against the estate, the parties had consented to a court-directed sale to liquidate public dues before partition. On that procedural footing, the separate statutory-recovery route was unnecessary and the executing court retained power to complete the sale and remit the dues. Earlier letters showing receipt and appropriation of Rs.6,60,000 toward expenditure-tax and wealth-tax amounts did not prove that every liability had been discharged; the later certificate established a balance. The Court also rejected the undervaluation and procedural objections in light of the long history, repeated failed efforts to settle or sell among co-sharers, and the absence of a procedural infraction warranting intervention.

Source: [Section 222 objection, outstanding dues and auction analysis: SCR pp.209-211](#)

03 JUDICIAL DECISION

The Court dismissed both appeals without costs. Because the bid amount had already been deposited, it left the executing court free to confirm the auction sale. The appellants received six months to vacate the occupied portion, subject to filing the usual undertaking within six weeks.

Source: [Dismissal, confirmation and vacating directions: SCR p.211](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the respondents and the State on the recovery and auction challenge. The sale could be confirmed; the appellants obtained only a six-month period to vacate subject to an undertaking. No costs were awarded.

Source: [Operative result: SCR p.211](#)

05 AKHB REVIEW POINT

AKHB analysis: before relying on a civil-court sale for tax recovery, identify who initiated recovery, the exact consent or execution order, whether the estate remained undivided, the statutory source and subsistence of each demand, and the priority rules applicable on the relevant date. Reconcile certificates and appropriations liability by liability; payment toward some taxes does not establish full discharge. The order should not be used as a general licence to avoid section 222 or the Second Schedule, nor as current authority that every tax demand automatically overrides all competing estate or insolvency claims.

Source: [AKHB analysis based on consent recovery and operative directions](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full five-page SCR report read. The editorial headnote on PDF page 1 was separated from the Court's order on PDF pages 2-5 / SCR pp.208-211.

[Open cited source rendition](#)

Exact source bytes match catalogue asset S_1996_7_207_211: SHA-256

059be67c51ec090797bf899a2b365b1ed3585704084081efc99f96ce2c3e5fc4; the PDF has five pages.

The title, 4 October 1996 date, two-member bench and Civil Appeal Nos.13216-13217 of 1996 are verified from SCR pp.207-208. The catalogue identifier 1996INSC1148 is not printed in the report and is not independently certified here.

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

The certificate records Rs.5,15,824 due, while a later judicial sentence says Rs.5,15,000 and odd. The precise certificate amount is used where needed and the rounded description is not treated as a separate figure.

STATUTORY SCOPE

The order concerns a historical estate-partition execution shaped by the parties' agreement and earlier court orders. It does not establish that every tax claim has first priority today or that section 222 and the Second Schedule may generally be bypassed.

LATER TREATMENT

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

AI DISCLOSURE

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

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKHB Review Point is editorial analysis, not part of the Court's judgment.