

K. Basavarajappa v. Tax Recovery Commissioner, Bangalore and Others

Civil Appeal No. 13049 of 1996 / Civil Appeal No. 13050 of 1996

[1996] Supp. 7 SCR 523 | 1996-10-11

Whether a proposed purchaser under an agreement executed after the Rule 2 notice could apply in his own right under Second Schedule Rule 60 to set aside the tax-recovery auction, relying on an authority to pay the arrears and a later consent decree.

Second Schedule Rule 2 | Second Schedule Rule 16(1) and (2) | Second Schedule Rule 48 | Second Schedule Rule 51 | Second Schedule Rule 60

2-judge bench; one opinion | Dr. A.S. Anand, J. | S.B. Majmudar, J.

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

IMPORTANT: APPLICATION-SPECIFIC STANDING; LIMITED LATER USE

Basavarajappa dismissed both Civil Appeals 13049-50 of 1996 because this agreement-holder lacked standing under Second Schedule Rule 60. Authority to deposit money did not amount to an application by the defaulter, and the agreement followed the Rule 2 notice without the required permission. The judgment does not bar a valid application by the defaulter or the defaulter's authorised representative. RBANMS (16 April 2025), paragraph 15.2.2, later used the no-property-interest principle in a third-party civil suit; that bounded comparison is not a complete current-law clearance. The source is a preserved eSCR public-mirror report with an internal Rule 16(2)/16(1) labelling slip. Comprehensive later treatment, present recovery-rule applicability and Income-tax Act 2025 mapping remain NOT VERIFIED.

01 FACTS OF THE CASE

Y.S. Devendra Murthy owned the agricultural land sold by the Income-tax Department to recover his tax arrears. The Tax Recovery Officer issued a Rule 2 notice on 3 September 1973. On 20 November 1982, after that notice, the defaulter agreed to sell the land to K. Basavarajappa for Rs. 2,80,000 and received Rs. 1,62,000 in advance. The stipulated eight months for conveyance were extended by five months. Basavarajappa filed O.S. No. 5 of 1984 for specific performance on 2 January 1984. An initial ex parte decree was set aside, leaving the suit pending (physical 3-4/SCR 525 F-526 A).

The Tax Recovery Officer attached the property on 11 February 1988 and auctioned it on 14 March 1988; respondent 3 was the successful purchaser. On 12 April 1988, within thirty days of the sale, Basavarajappa applied under Rule 60 and deposited Rs. 3,42,322, described as arrears, interest, solatium and costs. He annexed a letter from Y.S. Surendra, the defaulter's general power-of-attorney holder and brother, authorising him to pay the arrears. The application asserted Basavarajappa's own interest as prospective purchaser. The Tax Recovery Officer rejected it on 20 April, recording that the sale had been confirmed pursuant to the Commissioner's direction; the Tax Recovery Commissioner rejected the appeal on 13 June 1988 (physical 4/SCR 526 B-F).

Basavarajappa and the power-of-attorney holder challenged those orders in the Karnataka High Court. On 14 December 1990 a Single Judge allowed the writ petition, held the Rule 60 application maintainable, quashed the recovery orders and, because the earlier deposit had been withdrawn, permitted the power-of-attorney holder to redeposit within four weeks so that the Tax Recovery Officer could proceed in accordance with law. Rs. 4,45,783 was then deposited. The revenue authorities brought Writ Appeal No. 293 of 1991; the auction purchaser brought Writ Appeal No. 721 of 1991. By a common judgment dated 13 February 1992, the Division Bench allowed both writ appeals and dismissed the writ petition for lack of standing, restoring the recovery authorities' orders (physical 2-5/SCR 524 H-527 D).

Two special-leave petitions were initially pursued by the power-of-attorney holder and Basavarajappa. The former withdrew at the notice stage; Basavarajappa alone pursued both resulting Civil Appeals, Nos. 13049 and 13050 of 1996. Leave was granted and the appeals were heard finally by consent. His counsel relied on a consent decree for specific performance dated 13 April 1988, the day after the Rule 60 application, arguing that title existed by the time the Tax Recovery Officer rejected it. The Court did not accept that submission as establishing his standing on the application date (physical 3,5-6/SCR 525 B-D, 527 E-528 C).

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

02 DISCUSSION BY THE HON'BLE COURT

S.B. Majmudar J. delivered the sole opinion on the common question in both appeals. Rule 60, reproduced at SCR 529-530, permitted the defaulter or a person whose interests were affected by the sale to apply to the Tax Recovery Officer within thirty days, on making the specified deposit. The quoted historical rule required the proclamation amount plus interest at 15% per annum from proclamation to deposit, and payment to the auction purchaser of 5% of the purchase money, subject to a one-rupee minimum. Rule 60(2) also restricted simultaneous pursuit of an unwithdrawn Rule 61 application. These are the terms reproduced in the judgment; their rate, deadline and operation for a present proceeding have not been separately certified (physical 7-8).

The Court distinguished entitlement to apply from the ministerial act of depositing money. The defaulter had standing to make a proper Rule 60 application, and his general power-of-attorney holder could do so on his behalf. Once such an application existed, the money's source or the person physically depositing it would not matter. Here neither had made that application. Basavarajappa's own application, reproduced in the judgment, described him as prospective purchaser, mentioned his specific-performance suit, asserted his own interest and asked that the sale be set aside. The authority letter to the Income Tax Commissioner merely authorised payment; it was not an application to the Tax Recovery Officer who conducted the sale seeking its cancellation. The Court therefore refused to transform the agreement-holder's application into the defaulter's application (physical 8-10/SCR 530 B-532 B).

Nor did the agreement-holder possess the required independent legal interest. On the application date he had only the agreement and pending specific-performance suit, not a decree granting specific performance. The consent decree relied upon by counsel was dated the following day. The Court assessed the legal interest asserted when the application was made, alongside the auction purchaser's competing position; it did not decide that a later consent decree itself transferred legal title or retrospectively cured the standing defect (physical 6/SCR 528 A-C; physical 10/SCR 532 B-D).

The statutory recovery restrictions independently reinforced the result. The 1982 agreement was made after the 1973 Rule 2 notice without obtaining the Tax Recovery Officer's permission. The permission-based restriction was not an absolute ban on every dealing, as the Court acknowledged; nevertheless this agreement had bypassed it. Once attachment was imposed in 1988, Rule 51 related it back to the notice date, placing the intervening agreement within the statutory restrictions. The discussion distinguishes the permission requirement in Rule 16(1) from Rule 16(2)'s invalidity of private transfers or payments contrary to attachment as against enforceable claims. At SCR 532 D-F the report twice labels the permission rule Rule 16(2), then immediately describes the breach as Rule 16(1) and accurately distinguishes sub-rule (2). That internal labelling slip is disclosed, not adopted as a different statutory rule or silently removed (physical 10-11/SCR 532 D-533 E).

The appellant's strongest submission was that the Revenue's proper concern was payment of

02 DISCUSSION BY THE HON'BLE COURT

the dues; since he timely tendered the complete required amount with authority from the defaulter's representative, invalidating his application was an unnecessary technicality. The Court rejected that reasoning in this setting because it would let a person who had bypassed Rule 16 create standing from the very transaction prohibited by the recovery scheme. A mere agreement to sell conferred no legal interest in the property sufficient for this application. The Court approved *D.V. Satyanarayana v. Tax Recovery Officer*, (1992) 197 ITR 407, which denied a Rule 61 application to an agreement-holder affected by Rule 16, and applied the same reasoning to Rule 60. It distinguished *M. Rajagopal v. Secretary, State Transport Authority*: that case concerned the authority to issue a notice to a transferee and not the present challenge to an auction after attachment. The report inconsistently prints Rajagopal's ITR page as 364 in the judicial text and 864 in the headnote; neither is independently corrected here (physical 11-12/SCR 533 C-534 C).

Finally, the defaulter's power-of-attorney holder had withdrawn from the Supreme Court proceedings and acquiesced in the High Court judgment. That order was final as against the defaulter and the representative; Basavarajappa therefore had to establish standing on his own and failed. The result concerns this application and this post-notice, unpermitted agreement. It does not deny the standing expressly recognised for the defaulter or a properly acting representative, nor decide every kind of pre-existing proprietary interest (physical 12/SCR 534 D-F).

A bounded later primary comparison confirms a subsequent use of the agreement-interest reasoning. In *The Correspondence, RBANMS Educational Institution v. B. Gunashekar & Another*, [2025] 5 SCR 94, 2025 INSC 490, paragraph 15.2.2, the Court quoted Basavarajappa's Rule 60 passage in rejecting a civil claim against a third-party institution founded only on an agreement to sell. The respondents' attempt to distinguish the tax-auction setting appears in paragraph 11.3; the Court nevertheless relied on the no-property-interest principle. This is verified later reliance on that principle in a different civil-procedure setting, not a new ruling on the current tax-recovery scheme, and not proof that every aspect of Basavarajappa remains unaffected by all later law (auxiliary physical 10,25-26).

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

03 JUDICIAL DECISION

Both Civil Appeals, Nos. 13049 and 13050 of 1996, failed and were dismissed. The Karnataka High Court Division Bench's rejection of the appellant's entitlement to apply under Rule 60 was sustained, so the appellant obtained no order setting aside the auction. The Court made no order as to costs in the circumstances. It did not separately adjudicate a tax assessment, award damages, direct a quantified refund of either deposit, or make a fresh conveyance order. The earlier specific-performance suit and consent decree were discussed as background to standing, not separately allowed or set aside in the operative order. The judgment also records that the High Court decision was final as against the withdrawn power-of-attorney holder and the defaulter (physical 12/SCR 534 C-G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue authorities and auction purchaser, against the agreement-holder appellant

Both Civil Appeals 13049 and 13050 of 1996 dismissed

Final determination of this appellant's lack of standing under Rule 60

The Court preserved the distinction between a proper application by the defaulter/representative and third-party physical payment; no new deposit-refund, tax computation or specific-performance decree was ordered.

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

05 AKHB REVIEW POINT

For a tax-recovery sale challenge, begin with the identity and legal capacity of the applicant, not merely the sufficiency of the deposit. Obtain the actual Rule 60 application, authority instrument, addressee and prayer. A letter authorising someone to pay cannot automatically substitute for an application by the person entitled to set aside the sale. Separately establish the dates of the Rule 2 notice, agreement, permission, attachment, auction and application, together with the precise proprietary interest then held. The application date matters; the source does not treat the next-day consent decree as a retrospective cure.

The case must be used with its statutory and factual limits. It concerns an agreement entered after notice, without the permission contemplated by the recovery scheme, followed by attachment and auction. It expressly recognises the defaulter's and properly acting representative's ability to apply. The Rule 16 labelling slip in the report should be checked against the relevant statutory text rather than reproduced as a new proposition. Do not turn the dismissed appeals into a rule that all third-party funding is ineffective or that every conceivable purchaser lacks standing.

RBANMS in April 2025 is a specifically verified later use of the agreement-holder's lack of property interest in a civil suit against a third party. It does not certify the complete recovery-law framework or exhaustive subsequent treatment. This note does not infer any Income-tax Act 2025 counterpart, saved procedure, transition rule or automatic precedent carryover. The historic 15% interest and thirty-day limit are reported terms of the quoted rule, not a present-action checklist.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: No order as to costs

INDIVIDUAL PROCEEDING OUTCOMES

1.

Case number: Civil Appeal No. 13049 of 1996

Underlying proceeding: One of the two appeals from the Karnataka High Court common judgment of 13 February 1992 in Writ Appeals 293 and 721 of 1991; exact one-to-one Supreme Court/High Court numbering correspondence is not specified in the primary report

Outcome: Dismissed; appellant lacked standing under Rule 60

Costs: No order as to costs

2.

Case number: Civil Appeal No. 13050 of 1996

Underlying proceeding: Companion appeal from the same common judgment; no guessed one-to-one docket correspondence

Outcome: Dismissed with companion appeal; common reasoning and relief

Costs: No order as to costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Complete two-appeal identity and factual/procedural history

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4; 5; 6

Paragraphs: Unnumbered judicial opinion; SCR 524 G-528 E

Source role: judicial text

2.

Topic: Rival arguments and historical Rule 60

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial opinion; SCR 528 F-530 A

Source role: judicial text

3.

Topic: Application versus authority merely to pay

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Unnumbered judicial opinion; SCR 530 B-532 B

Source role: judicial text

4.

Topic: Post-notice agreement, permission, attachment and authorities

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: Unnumbered judicial opinion; SCR 532 C-534 C

Source role: judicial text

5.

Topic: Withdrawal, finality, dismissal of both appeals and costs

Source url: [Open cited source](#)

Pdf pages: 12

Paragraphs: Unnumbered judicial opinion; SCR 534 D-G

Source role: judicial text

AMOUNTS AND THEIR DISTINCT REPORTED ROLES

1.

Amount: INR 280000

Role: 1982 agreed purchase price

2.

Amount: INR 162000

Role: Advance paid under agreement

3.

Amount: INR 342322

Role: 12 April 1988 deposit described as arrears, interest, solatium and costs; no separate breakdown invented

4.

Amount: INR 445783

Role: Redeposit following the Single Judge's order after the initial deposit had been withdrawn

5.

Amount: 15% per annum and 5% of purchase money, minimum INR 1

Role: Historical Rule 60 deposit terms reproduced in the judgment; not a new Supreme Court award

QUANTIFICATION AND MONETARY LIMITS

No fresh quantified tax liability, refund, damages or interest award appears in the Supreme Court's dismissal order.

REPORTED SOURCE ANOMALIES AND THEIR LIMITS

Frozen metadata lists only Civil Appeal 13049/1996; the primary jurisdiction recital and opinion identify Civil Appeals 13049–50 of 1996. Both are accounted for, with the original frozen dedup identity retained unchanged.; The judicial text at SCR 532 D–F twice uses Rule 16(2) for the permission restriction, then identifies the breach as Rule 16(1) and separately distinguishes sub-rule (2). The note discloses the internal slip.; M. Rajagopal is cited as (1978) 115 ITR 864 in the headnote but 364 in the judicial text. Its independent report citation is not resolved here.; The source prints varying forms Surender and Surendra for the same power-of-attorney holder; no separate person is inferred.; The editorial headnote suggests a challenge to the rules and places the consent decree after the auction; the opinion describes a challenge to recovery orders and dates the consent decree 13 April 1988, after the 12 April application. The note follows the opinion.; The title/bench OCR misreads letters in Basavarajappa and Majmudar; images verify the printed identities.; RBANMS's cited-case list and footnote identify the equivalent citation as (1996) 11 SCC 632. A predecessor search term (1997) 6 SCC 355 is not adopted as this case's citation.; Frozen 1996INSC1187 remains a catalogue anchor, not an independently authenticated neutral citation.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Second Schedule Rule 61 appears in the quoted Rule 60(2) and the approved Karnataka precedent; the present application was under Rule 60.; The rule numbers are provisions of the Second Schedule to the Income-tax Act, 1961, not an independently applied part of the Income-tax Rules, 1962.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.B. Majmudar, J., for the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Case: The Correspondence, RBANMS Educational Institution v. B. Gunashekar & Another

Date: 2025-04-16

Citation: [2025] 5 SCR 94; 2025 INSC 490

Source: [Open cited source](#)

Source sha256: 3b7f33f5a75b36497de56ff3a0c2b4e43593704088e6156b0a3d3bc66852197f

Pinpoint: Paragraph 11.3, physical 10/SCR 103; full paragraph 15.2.2, physical 25-26/SCR 118-119; cover and disposal checked at 1,33-34

Result: Expressly relied on and quoted Basavarajappa for the absence of property interest from an agreement to sell when rejecting a civil claim against a third-party institution. Respondents had argued that the tax-auction context was distinguishable.

Status: bounded primary text and selected images verified

Scope limit: Only identified portions read. No whole-judgment classification, new RBANMS note, comprehensive citator certification or modern tax-rule holding.

RETAINED PDF SOURCE CHECKS AND READING LIMITS

1.

Kind: preserved reported judgment

Asset id: 2025_5_94_127

Source id: 2025_5_94_127

Source role: auxiliary only

Role: auxiliary only

Source file: auxiliary/RBANMS_2025_reported.pdf

Filename: RBANMS_2025_reported.pdf

Source url: [Open cited source](#)

Url: [Open cited source](#)

Source sha256: 3b7f33f5a75b36497de56ff3a0c2b4e43593704088e6156b0a3d3bc66852197f

Sha256: 3b7f33f5a75b36497de56ff3a0c2b4e43593704088e6156b0a3d3bc66852197f

File bytes: 239959

Pdf pages: 34

Physical text pages read: 1; 4; 7; 8; 10; 25; 26; 33; 34

Physical image pages read: 1; 4; 7; 8; 10; 25; 26; 33; 34

Full bounded judicial text read: False

Full document text read: False

All document images read: False

Read bounds: Bounded auxiliary read only: cover and cited-authority list (physical 1,4); Basavarajappa submissions and opposing distinction (7-8,10); full paragraph 15.2.2 and embedded quotation at 25-26, with adjacent context on those pages; concluding disposition/costs (33-34). Other pages not read; paragraph 15.2.3 continues beyond selected page 26 and no whole-paragraph claim is made for it. No full RBANMS classification or new case note.

Provenance: Preserved eSCR public-mirror report extracted by predecessor from SC_Sources_039.zip; exact retained SHA-256 and byte count rechecked by current author. Printed title, date, docket, citation and author checked visually. It is not the separately preserved official rendition of the existing canonical 2025 note and is not treated as such.

Review scope: Direct later use of Basavarajappa for the agreement-holder/no-property-interest principle in a third-party injunction/plaint-rejection dispute. Does not establish comprehensive later treatment or modern operation of every tax-recovery rule.

Checked at utc: 2026-10-06T02:44:25.158274+00:00

Predecessor recovery

Asset id: 2025_5_94_127

Role: auxiliary only

Archive filename: SC_Sources_039.zip

Package sha256: 9a2bf7552dd9305970ac5c152989ca366d71fa5d3990c91dbc9caa83650e3ea8

Package bytes: 16163529

Member: sources/2025/2025_5_94_127_EN.pdf

Member unique: True

Member crc32: 8c0cf7c0

Sha256: 3b7f33f5a75b36497de56ff3a0c2b4e43593704088e6156b0a3d3bc66852197f

File bytes: 239959

Recovered at utc: 2026-10-06T02:32:04.745772+00:00

Full primary read: False

Identity reconciliation: Consolidated source index verifies the exact source URL/hash/bytes. Its metadata gives 15 April 2025 and marks J.B. Pardiwala as author; the printed cover gives 16 April 2025 and marks R. Mahadevan as author. This bounded comparison uses the visually verified cover identity without modifying frozen metadata.

Verified identity

Title: The Correspondence, RBANMS Educational Institution v. B. Gunashekar & Another

Decision date: 2025-04-16

Citation: [2025] 5 SCR 94; 2025 INSC 490

Case numbers: Civil Appeal No. 5200 of 2025

Author: R. Mahadevan, J.

SOURCE & VERIFICATION

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

Identified source rendition: 12 PDF pages; SHA-256 f833843b52824de6a9569b61b25aa314223ba1cd11595f8a2a46b15cb8a79e9e. Original bytes preserved. All 12 physical pages, printed SCR 523-534. Editorial headnote occupies physical 1-2; civil appellate recital begins physical 2/SCR 524 G-H. Sole opinion of S.B. Majmudar J. begins physical 3/SCR 525 B and ends physical 12/SCR 534 with dismissal of both appeals and no order as to costs. Complete Rule 60 quotation, application and authority-letter discussion read. No adjacent judgment or separate opinion.

Open cited source rendition

full primary text read: True; all primary page images reviewed: True; material primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; all authored opinions separately accounted for: True; material later treatment limits prominent: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True
Printed SCR title/date/docket/bench checked in all-page preserved primary read; frozen INSC catalogue anchor is not asserted as an independently authenticated neutral citation.

The report refers to default for relevant assessment years but specifies none; no tax assessment or year-specific liability was adjudicated.

STATUTORY SCOPE

No Income-tax Act 2025 section-equivalence, commencement, transition, savings or automatic precedent carryover is certified.

LATER TREATMENT

Source checked 2026-10-06. not_verified

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

SHA-256: f833843b52824de6a9569b61b25aa314223ba1cd11595f8a2a46b15cb8a79e9e

[preserved reported judgment - PDF pages: 34](#)

SHA-256: 3b7f33f5a75b36497de56ff3a0c2b4e43593704088e6156b0a3d3bc66852197f

AI DISCLOSURE

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