

## Commissioner of Income Tax, Kerala-II, Ernakulam v. M/s Kandath Motors etc.

Civil Appeal No. 3069 of 1980 and connected proceedings (full list below)

[1997] 2 SCR 675 | 1997-03-04

**Whether a genuine firm's historical registration could be cancelled merely because an existing partner signed the new deed both personally and as authorised representative of a deceased partner's heirs.**

186(1) (historical cancellation) | 184 (historical registration) | 185 (historical registration)

Two-judge bench | B.P. Jeevan Reddy, J. | Suhas C. Sen, J.

Assessment years: 1972-73 (lead appeal only)

### Multiple real partners; historical registration and connected disposal

Dual-capacity execution did not invalidate this genuine firm with four other partners and authorised representation of adult heirs. The decision does not permit a one-person partnership or all conflicted arrangements. Fifteen civil appeals and three SLPs were dismissed without costs; companion facts and years are not supplied. The old registration regime changed from 1 April 1993, and comprehensive later treatment/current-law mapping remain unverified.

### 01 FACTS OF THE CASE

The registered six-person firm's deed provided that a partner's death or retirement need not dissolve it. Following Sudevan's death on 9 February 1970, a fresh deed was executed on 20 February. Krishnadas signed personally and as attorney representing Sudevan's three adult sons under the will; he was himself one heir. Four other individuals were also partners. Registration was initially granted for AY 1971-72, then cancelled under section 186(1) for AY 1972-73 because of his two capacities (physical pages 2-4).

The first appellate authority agreed with the ITO. The Tribunal found a genuine firm and the High Court answered the reference for it. The lead appeal concerns the previous year 1 July 1970 to 30 June 1971. The source does not separately narrate the years or facts of the many companions disposed of at the end (physical pages 2, 4 and 10).

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

## 02 DISCUSSION BY THE HON'BLE COURT

The Court emphasised the presence of four other partners: this was not merely one person purporting to form a partnership with himself. A surviving partner could join as nominee of the deceased's legal representatives; his obligations concerning beneficial profits did not necessarily invalidate his contractual membership. The Court considered the adult heirs, their representation and the absence of a demonstrated conflicting interest in this arrangement (physical pages 4–5).

The historical sections 184/185 inquiry concerned the instrument, specified shares and genuine constitution. Authorities on trustees, nominees, sub-partners and family representatives distinguished the person who contracts with the firm from persons beneficially interested in that partner's profits. Cases involving a purported partnership with oneself or distinct defects were not a general prohibition on representative capacity. With the other partners and the power of attorney present, the Court found no legal basis to invalidate this agreement merely because Krishnadas signed twice (physical pages 5–10).

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

## 03 JUDICIAL DECISION

The lead Revenue appeal was dismissed without costs, affirming the High Court's answer sustaining the genuine firm. The 14 further civil appeals and three special-leave petitions specifically listed on physical page 10 were also dismissed on that reasoning without costs: 15 civil appeals and three SLPs in total. No grant of leave in those three petitions or separate companion factual ruling is recorded.

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

## 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee in the reasoned lead appeal; linked appeals and SLPs dismissed as listed

Lead appeal, 14 companion civil appeals and three SLPs dismissed; no order as to costs

Reasoned final lead ruling on genuineness despite dual-capacity signature, applied to specified companions

No single-person partnership, no blanket approval of conflicted self-dealing, and no determination of every beneficiary's tax liability or unrecorded companion facts.

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

## 05 AKHB REVIEW POINT

Identify the actual contracting persons, the representative's authority and any real conflict before treating two signatures as two incompatible partners. The beneficiaries' rights to profits against their representative differ from direct membership rights against all partners. The Court's reassurance about conflict was based on this composition and authority, not a general exemption from fiduciary duties.

The old registration regime was replaced by the Finance Act, 1992 from 1 April 1993. The bounded 2011 compilation check, pages 780–781, does not certify present-law requirements or this judgment's later judicial treatment. Do not import the lead year or six entries in the deed into every companion case. Krishnadas occupies two described capacities, but four other individuals mean there are five distinct signatory persons; the report's "six partners" language follows the deed's six entries.

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

## APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 3069 of 1980 / Civil Appeal No. 3338 of 1984 / Civil Appeal Nos. 8601–8602 of 1983 / Civil Appeal Nos. 411–416 of 1984 / Civil Appeal Nos. 1570–1571 of 1993 / Civil Appeal No. 4675 of 1984 / Civil Appeal No. 3867 of 1992 / Civil Appeal No. 7745 of 1995 / Special Leave Petition (C) Nos. 19919–19920 of 1995 / Special Leave Petition (C) No. 12744 of 1991

## PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

**Topic:** Identity, lead year, composition and cancellation

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

**Pdf pages:** 1; 2; 3; 4

**Paragraphs:** Unnumbered judicial text

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

2.

**Topic:** Four other partners, representation and conflict assessment

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

**Pdf pages:** 4; 5

**Paragraphs:** Unnumbered judicial text

**Source role:** judicial text

3.

**Topic:** Registration standard and personal/beneficial capacities

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

**Pdf pages:** 5; 6; 7; 8; 9

**Paragraphs:** Unnumbered judicial text

**Source role:** judicial text

4.

**Topic:** Application and exact 15-appeal/3-SLP disposal

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

**Pdf pages:** 9; 10

**Paragraphs:** Unnumbered judicial text

**Source role:** judicial text

5.

**Topic:** Historical registration/cancellation regime replaced

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

**Pdf pages:** 780; 781

**Paragraphs:** Section 184 and editorial amendment notes 90/96

**Source role:** bounded statutory compilation and editorial note

## JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Suhas C. Sen, J.

## ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

## SCOPE OF THE INCOME-TAX ACT ISSUE

**Substantive 1961 act:** True

**Not 1922 only:** True

**Basis:** The present questions and relief concern the expressly identified 1961 Act provisions; references to the 1922 Act are historical statutory/precedent discussion, not the sole basis of this note.

## SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

1e71b6849403282f3e3a3b51958f6712101bc3355b5a9c926bd099ac4a55752c. Original bytes preserved.

Complete unnumbered judicial text physical pages 2–10/SCR 676–684. Lead Civil Appeal 3069/1980 reasoning followed by disposal of the specified companion appeals and SLPs; headnote and quoted precedents distinguished.

[Open cited source rendition](#)

The complete ending lists 15 civil appeals including the lead and three SLPs; the single lead asset metadata understates the connected disposal.; The lead registration for AY 1971-72 is background; cancellation under review is AY 1972-73. Companion assessment years are not stated.; The deed's six entries include Krishnadas twice. Five distinct people, with four others besides him, are central to the reasoning.; The report's page 9 sentence recounting Raghavji Anandji is grammatically contradictory, juxtaposing a contract with oneself and a contract with nine others. The present Court's own four-other-partners reasoning on pages 4 and 9 is clear and controls the note.; Older cases discussing benamidars and family arrangements are quoted registration authorities, not a current approval of arrangements under separate property, fiduciary or anti-abuse legislation.

## 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 treatment has not been verified. Only the expressly identified bounded historical statutory-compilation comparison was checked. No automatic current-law or Income-tax Act, 2025 mapping is certified.

**IDENTIFIED SOURCE LINKS**

[reported judgment - PDF pages: 10](#)

SHA-256: 1e71b6849403282f3e3a3b51958f6712101bc3355b5a9c926bd099ac4a55752c

[bounded historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

**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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