

V.S.M.R. Jagdishchandran (Dead) by LRs. v. Commissioner of Income Tax, Madras

Civil Appeal No. 4385 of 1997

[1997] Supp 2 SCR 83 | 1997-07-09

Whether mortgage discharge on the stated property facts required a section 256(2) reference about cost or diversion in the capital-gain computation.

45 | 48 | 256(2)

Two-judge bench | S.C. Agrawal, J. | D.P. Wadhwa, J.

Assessment years: 1975-76

Refusal on these facts; predecessor mortgages remain distinct

The refusal to require a reference was upheld without costs even though the High Court's broader reasons were not accepted. This was not the predecessor-created mortgage category recognised in Arunachalam. The source conflicts on the High Court year and describes the repayment route differently; no new mortgage amount or tax computation is supplied. No universal diversion rule or comprehensive later-treatment certification follows.

01 FACTS OF THE CASE

For AY 1975-76 the assessee sold an encumbered Madurai house for Rs 90,000 and other plots for Rs 12,600. The ITO computed capital gains of Rs 68,400. The assessee contended that the buyer discharged mortgage debts from the sale proceeds and that the payments enhanced acquisition cost, improved title or diverted proceeds at source (physical pages 2–3).

The Appellate Assistant Commissioner rejected the cost argument but accepted diversion and deleted the gain. The Tribunal restored the adverse result, and declined a reference. The High Court rejected the section 256(2) application. The Supreme Court granted leave and considered whether the proposed questions were arguable in light of its same-day ruling (physical pages 2–4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court explained that Arunachalam had rejected the earlier Kerala view for a mortgage created by a previous owner and subsisting at death: an inheriting successor may acquire the mortgagee's interest by clearing it, making that payment acquisition cost under section 48. It did not endorse the High Court's undifferentiated proposition against all mortgage discharge (physical pages 3–4).

The present record was different. The Court said it was not a case where a predecessor had mortgaged the property and the assessee inherited only the mortgagor's interest. Clearing this mortgage did not acquire the additional inherited-property interest identified in the companion ruling. The proposed questions therefore raised no arguable question requiring reference, although the High Court's reasons were not fully accepted (physical page 4).

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

03 JUDICIAL DECISION

The appeal was dismissed without costs. The High Court's refusal to direct a reference stood, notwithstanding the Court's disagreement with its broader reasoning. The existing Rs 68,400 capital-gain assessment was not displaced by a newly ordered reference; the Supreme Court did not supply a fresh item-by-item computation or quantify mortgage repayment (physical page 4).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed; section 256(2) reference refusal upheld; no costs

Reasoned rejection of the proposed reference on these mortgage facts

No universal ban on acquisition-cost deductions for predecessor mortgages and no independent detailed ruling on every possible diversion-of-income arrangement.

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

05 AKHB REVIEW POINT

Ask who created the mortgage and what interest the taxpayer already held before paying it off. Payment out of sale proceeds does not itself create a new acquisition cost. Equally, a refusal to refer in this case should not be used to deny the distinct inherited-mortgage category expressly recognised in the same-day Arunachalam judgment.

Separate the lower authority's diversion reasoning from the Supreme Court's short, fact-linked refusal analysis. This appeal preserved the outcome while rejecting overbroad reasoning. The note does not supply present-year indexation, valuation or deduction advice, and the historical section 256 reference procedure is not a current procedural instruction.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, year, transaction, proposed questions and procedural history

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Predecessor-mortgage distinction and reasoned reference refusal

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Same-day distinction and separate unexamined diversion issue

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19

Paragraphs: Unnumbered judicial text

Source role: same day companion judgment

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.C. Agrawal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 4 PDF pages; SHA-256

536c5ca57622b4d63aceddb17236e09cceb053f5ffd3e8799a3f8bce7626bcd1. Original bytes preserved.

Complete judicial text physical pages 2–4/SCR 84–86; appeal from refusal to require a reference, applying the same-day predecessor-mortgage distinction.

Open cited source rendition

On physical page 2 the appeal particulars give High Court date 25 July 1983, while the judicial opening says 25 July 1984. The source conflict is preserved; the Supreme Court date and appeal number are clear.; Physical page 4 says the mortgage was cleared by the assessee, while the earlier argument says the buyer discharged it from sale proceeds. The decisive recorded distinction is that this was not a predecessor-created mortgage inherited as only a mortgagor's interest; the payment route is not silently rewritten.; The Court disapproves the predecessor-mortgage proposition in an earlier authority but dismisses this appeal. Editorial overruled labels must not obscure that fact-specific application.; Rs 68,400 is the ITO's capital gain, not tax or mortgage balance; Rs 90,000 and Rs 12,600 are separate property sale considerations.; The appellant's proposed diversion question was among the questions refused, but the short judgment does not provide a universal test for all overrides or creditor arrangements.

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. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 4

SHA-256: 536c5ca57622b4d63aceddb17236e09cceb053f5ffd3e8799a3f8bce7626bcd1

same day reported companion judgment - PDF pages: 19

SHA-256: 4de0c115e81a1c8eb12d908fe4b788eaa14730cd7dc7eff62fef69005cfdcf09

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