

Raj Pal Singh v. Commissioner of Income-Tax, Haryana, Rohtak

Civil Appeal No. 2416 of 2010

[2020] 9 SCR 185 | 2020-08-25

Whether the assessee's capital gains accrued on the 15 May 1968 preliminary acquisition notification because the beneficiary College already possessed part of the land, or on the 29 September 1970 award; and whether Revenue's acceptance of the assessee's result for a different acquisition in AY 1975-76 barred its challenge for AY 1971-72.

45 | 2(47) | 256(1)

Three-judge bench | A. M. Khanwilkar, J. | Hemant Gupta, J. | Dinesh Maheshwari, J.

Assessment years: 1971-72

01 FACTS OF THE CASE

Raj Pal Singh was the karta of Amrik Singh HUF. The disputed assessment was AY 1971-72. The HUF's land at Patti Jattan, Ambala, measured 41 kanals and 14 marlas. Most of it had been leased by the former owner to S.A. Jain College for 20 years, ending on 31 August 1967; 5 kanals and 7 marlas in two khasra numbers had not been included in that lease. The College continued in possession of the leased portion and sought compulsory acquisition for a playground. Haryana issued the section 4 notification on 15 May 1968, the section 6 declaration on 13 August 1969 and the Collector's award on 29 September 1970. The award allowed interest from the notification date because the College had retained possession (paragraphs 5-7.2).

The dispute passed through two assessment rounds. The original AO assessed interest but did not include capital gains for AY 1971-72. The first appellate authority added capital gains. On 19 December 1985, the ITAT remanded this assessment to ascertain when Government possession had been taken. On the same date, it allowed a separate appeal for AY 1975-76 involving another parcel acquired for a warehouse, treating that acquisition as an urgency case with identified Government possession on 4 September 1972 (paragraphs 8-12).

On remand, the appellant relied on the 1968 notification but did not substantiate a date of Government possession or publication of the section 9(1) notice. After enquiries, the AO held in the 25 January 1988 reassessment that this was an ordinary acquisition and that the award date governed. Capital gains were computed using the original and enhanced compensation; interest for 1 April 1970 to 31 March 1971 was assessed protectively on an accrual basis at 12%, subject to amendment if necessary. The CIT(A) upheld the reassessment. On 29 June 1990 the ITAT instead inferred transfer on the 1968 notification date from the award's interest clause, and regarded the remaining reassessment objections as redundant (paragraphs 13-17.2).

On Revenue's section 256(1) reference, the Punjab and Haryana High Court reversed that view on 23 April 2008. The assessee appealed, contending that the beneficiary's earlier possession established transfer in 1968 and that Revenue could not depart from its accepted result for AY 1975-76 (paragraphs 18-23). A source chronology remains unresolved: paragraph 13 gives the Additional District Judge's enhancement order as 30 December 1984 but describes the resulting appeal as RFA No. 390 of 1975. Both renditions contain that sequence; this note does not substitute a conjectured date.

Source: [reported judgment / paragraphs 1-18 / PDF pages 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 / judgment](#); [reported judgment / paragraphs 19-23 / PDF pages 25, 26, 27, 28, 29, 30, 31 / judgment](#); [official signed judgment / paragraphs 13: chronology as printed / PDF pages 12 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court applied the statutory versions for AY 1971-72 and the acquisition law in force in 1968. Under the then section 45 read with section 2(47), compulsory acquisition is a transfer, and capital gains are deemed income of the previous year of that transfer. The land's character as a capital asset was not disputed. The enquiry was when the transfer became complete, not merely when the owner acquired a claim to compensation (paragraphs 24-30.1 and footnote 14).

Under the ordinary Land Acquisition Act process, a section 4 notification announces intended acquisition; it does not divest the owner. Sections 5A, 6, 9 and 11 lead to the award, after which the Collector may take possession under section 16 and the land vests absolutely in Government. Under section 17(1), Government directions in an urgency case permit possession before award, but only after the prescribed 15-day period following publication of the section 9(1) notice. The Court drew support from *Godrej and Boyce and Fruit & Vegetable Merchants Union*; notification or declaration alone does not accomplish the transfer (paragraphs 26.1-26.2 and 31.1-31.5).

The special question was possession obtained before the statutory stage for taking it. The Court approved *S. Appala Narasamma and Pandari Laxmaiah*, drawing on *Avinash Sharma*: premature possession is related to the lawful vesting stage. Where possession has already been taken, capital gains arise on the award in ordinary acquisition, or after expiry of the section 9(1) 15-day period in an urgency acquisition satisfying section 17. This qualification concerns previously taken possession; it is not a rule that every acquisition necessarily transfers title on the award date, irrespective of possession (paragraphs 32-36).

Authorities dealing with compensation or interest accrual did not answer the distinct transfer question. *Peter John and Joginder Singh* concerned the right to compensation and interest, while *Rama Bai* concerned year-by-year accrual of interest on enhanced compensation. *Bombay Burmah Trading* concerned wartime damages. A present right to compensation or interest need not itself complete the statutory transfer that produces capital gains. *Rama Bai's* interest principle was relevant to the protective interest component of the reassessment, rather than a reason to date the capital-asset transfer to 1968 (paragraphs 34-35).

On the facts, no urgency direction or process under section 17 was shown, and the appellant did not provide the section 9(1) notice date despite enquiries. Interest from the section 4 notification date did not establish an urgency acquisition. Even assuming Government had already possessed the land before award, the ordinary-acquisition rule would postpone the completed transfer until 29 September 1970 (paragraphs 37-38.2.2).

The stronger factual answer was that possession before the award belonged to the College as former lessee, not to Government as acquirer. The lease expired by efflux of time. Since no acceptance of rent or assent to continuation was shown, the College was a tenant at sufferance, acknowledging the owner's title and liability for use and occupation. Applying

02 DISCUSSION BY THE HON'BLE COURT

sections 108(q), 111(a) and 116 of the Transfer of Property Act and the principles explained in Nand Ram and its quotation of MEC India, the Court held that the appellant retained ownership until the award. The College's status as intended beneficiary did not convert its possession into Government possession upon notification (paragraphs 27 and 39-39.6).

The incidental contention that all interest and solatium belonged to FY 1968-69 was also rejected. The AO had consciously assessed the interest component protectively on accrual for FY 1970-71, and an award of interest from 15 May 1968 did not establish vesting on that date. Paragraph 46 approved the capital-gains assessment including enhanced compensation and the protective interest assessment. It did not turn all historic or future interest into capital gains taxable in the award year (paragraphs 34.2.1 and 40-41, 46).

Revenue's acceptance of the separate AY 1975-76 order did not preclude this challenge. That other case had been treated as an urgency acquisition with a specified possession date, whereas this was an ordinary acquisition; the ITAT itself had distinguished the cases by remanding only the present one. In addition, Revenue had just cause to question the later 1990 order in light of the governing vesting law, and the ITAT had itself referred the question of law. Berger Paints therefore did not require the same outcome on these different facts. The Court did not reopen or dispose of the final AY 1975-76 assessment (paragraphs 42-45).

The procedural power to include enhanced compensation requires a separate caution. Paragraph 16.1 records the CIT(A)'s view that a section 155(7A) order could be combined with the remand assessment, but footnote 12 expressly says this issue was not directly involved in the Supreme Court appeal. That footnote describes section 155(7A) as inserted by the Finance Act, 1978 retrospectively from 1 April 1974 and omitted with effect from 1 April 1992. The judgment should not be presented as a separate adjudication of its limitation period, retroactive reach, or every objection to the scope of the remand.

Source: [reported judgment / paragraphs 24-27.2.2; footnotes 12-14 / PDF pages 31, 32, 33, 34, 35, 36, 37, 38 / judgment](#); [reported judgment / paragraphs 28-33.2 / PDF pages 38, 39, 40, 41, 42, 43, 44, 45 / judgment](#); [reported judgment / paragraphs 34-36 / PDF pages 45, 46, 47, 48, 49, 50, 51 / judgment](#); [reported judgment / paragraphs 37-41 / PDF pages 51, 52, 53, 54, 55, 56, 57 / judgment](#); [reported judgment / paragraphs 42-46; footnote 17 / PDF pages 57, 58, 59, 60 / judgment](#); [official signed judgment / paragraphs 25, footnote 12: section 155\(7A\) issue not directly involved / PDF pages 31 / judgment](#)

03 JUDICIAL DECISION

Both questions were answered against the assessee. On these facts the capital-asset transfer was completed on 29 September 1970, the award date, rather than 15 May 1968, the notification date; the capital gains were properly assessed for AY 1971-72. Revenue was not barred by its acceptance of the different AY 1975-76 outcome. The Court approved the second-round assessment of long-term capital gains on the original and enhanced compensation and the protective accrual assessment of interest. The appeal was dismissed without costs; no remand was ordered (paragraphs 41, 45-47).

Source: [reported judgment / paragraphs 39.6-41; 45-47 / PDF pages 56, 57, 59, 60 / judgment](#); [official signed judgment / paragraphs 45-47 / PDF pages 66, 67 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed; assessment upheld; no costs

Final merits determination of the transfer-year and consistency questions; protective character of the interest assessment expressly preserved

Applies the historical AY 1971-72 tax provisions and 1968 Land Acquisition Act framework to this ordinary acquisition. It does not decide the different AY 1975-76 appeal, make every award date the transfer date, quantify a fresh final interest demand, or independently resolve section 155(7A) limitation/retroactivity and remand-scope objections.

Source: [reported judgment / paragraphs 46-47 / PDF pages 60 / judgment](#); [official signed judgment / paragraphs 46-47 / PDF pages 66, 67 / judgment](#)

05 AKHB REVIEW POINT

Build the acquisition chronology from the actual instruments: section 4 notification, section 6 declaration, section 9 notice, any express urgency direction, the award, and the record of Government possession. Distinguish possession by a tenant or proposed beneficiary from possession under the acquisition statute. An interest commencement date is not a substitute for proof of title vesting, and a lease's expiry does not itself transfer the lessor's ownership.

Keep three enquiries separate: statutory completion of transfer, computation of compensation-based capital gains, and the character and year-wise accrual of interest. This decision sustains an expressly protective interest assessment and applies old statutory text. Independently check the applicable later compensation and interest provisions before using it for another assessment year. Preserve the Court's section 155(7A) limitation of scope; do not derive a new amendment-power or limitation holding from the background account of the CIT(A)'s order.

For a consistency argument, compare the statutory route and proved possession facts of the earlier case, not merely the same assessee and a similar tax label. An accepted urgency-acquisition result did not control this ordinary-acquisition case. Before relying on the compensation-enhancement chronology, obtain the underlying orders to resolve the source's 1984-order/1975-appeal discrepancy. Later treatment and any Income-tax Act, 2025 application require fresh verification.

Source: [reported judgment / paragraphs 24-26.3; 31.1-38.2.2; 39.2-40.1; 44.1-46 / PDF pages 31, 32, 33, 34, 35, 36, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(14); 14; 155(7A); 48; 154

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 45; 2(47)

Role: principal charge and transfer definition

Basis: Historical AY 1971-72 capital-gains charge depends on completion of compulsory transfer and the previous year in which it occurred.

2.

Act: Income-tax Act, 1961

Section: 256(1)

Role: reference procedure

Basis: Revenue obtained a reference against the ITAT order of 29 June 1990; the High Court answered it on 23 April 2008. This is not a section 260A appeal.

3.

Act: Income-tax Act, 1961

Section: 2(14); 14

Role: capital-asset and head-of-income context

Basis: The land's character as a capital asset was undisputed; no exemption or agricultural-land exclusion was adjudicated.

4.

Act: Income-tax Act, 1961

Section: 155(7A); 48; 154

Role: historical reassessment/enhanced-compensation background, not an independently decided procedural issue

Basis: The Court records the CIT(A)'s reasoning permitting inclusion of enhanced compensation and reproduces the then section 155(7A) amendment mechanism in footnote 12, expressly saying this aspect is not directly involved in the appeal. No separate limitation or retrospectivity ruling is inferred.

5.

Act: Land Acquisition Act, 1894

Section: 4; 5A; 6; 9(1); 11; 16; 17(1)

Role: principal vesting framework

Basis: Distinguishes preliminary notification, ordinary acquisition and taking possession after award from urgency acquisition under governmental directions after the prescribed notice period. Premature possession becomes referable to the lawful stage; notification alone does not vest title.

6.

Act: Land Acquisition Act, 1894

Section: 28

Role: interest context

Basis: Interest from the notification date was an equitable application of the law and did not establish transfer/vesting on that date.

7.

Act: Transfer of Property Act, 1882

Section: 5; 108(q); 111(a); 116

Role: property-transfer and expired-lease possession context

Basis: The beneficiary College's continued possession, without proof of the lessor accepting rent or assenting, was that of a tenant at sufferance; it did not extinguish the owner's title or automatically become Government possession.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dinesh Maheshwari, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (official signed judgment)

Identified source rendition: 67 PDF pages; SHA-256

958b2c9334970dde663f92feec014992eddd31bc60fc9ce05be85039e774d3fe. Original bytes preserved.

Official judgment paragraphs 1-47, with decimal subparagraphs and footnotes, on physical PDF pages 1-67; conclusion in paragraphs 46-47 on pages 66-67.

Cover, signatures/date, selected reasoning, statutory-version limitations, identified source anomalies and operative conclusion checked against the fully read reported judicial text. No claim of a separate full independent reread of all 67 official pages.

Open cited source rendition

Both sources state an ADJ enhancement order dated 30 December 1984 followed by RFA No. 390 of 1975 (paragraph 13); the chronology is internally incongruous and has not been repaired or independently resolved.

Quoted lower orders contain a notification date of 16 May 1968 and an award date of 29 July 1970, whereas the Court's own narrative and holding consistently use 15 May 1968 and 29 September 1970. The note uses the Court's operative dates and does not silently rewrite the quoted orders.

The nested Bhawanji Lakhamshi quotation in paragraph 39.3 appears to transpose the labels for consent-based holding over and tenancy at sufferance. Both renditions reproduce it. This note follows the Court's own rule in paragraph 39.2 and express application in paragraph 39.4, rather than that isolated sentence.

Paragraph 44.3 must be read with paragraphs 33.1.1, 35.1 and 36: the 15-day urgency-stage formulation addresses possession obtained before the lawful stage, and does not justify dispensing with the statutory acquisition process.

The Court expressly labels section 155(7A) procedural power as not directly involved (footnote 12). Enhanced compensation appears in the final assessment sustained, but no separate limitation or retrospective-operation holding is attributed.

The interest component remained a protective assessment on accrual for FY 1970-71; the dismissal is not an unrestricted holding taxing all interest in the award year.

Footnote 17 rejects the earlier ITAT observation that Government possession necessarily preceded this award; that remand-era statement is not adopted as a Supreme Court finding.

Reported citation verified on the reported cover. The catalogue neutral citation has not been independently verified on either inspected cover and is not promoted into this note.

AY 1971-72 is the assessment under appeal, with previous year 1 April 1970 to 31 March 1971. AY 1975-76 concerns a different acquisition invoked as a consistency comparator; it is not an additional appeal disposed of here. AY 1969-70 was the appellant's proposed earlier tax year.

STATUTORY SCOPE

Income-tax Act sections 45 and 2(47) as applicable to AY 1971-72; Land Acquisition Act, 1894 provisions as applicable in 1968. The historical section 155(7A) text is reproduced only as background to the reassessment and is expressly not directly involved in the appeal. Transfer of Property Act, 1882 provisions explain post-lease possession.

No automatic Income-tax Act, 2025 crosswalk or present-law certification. Later compensation/interest taxation provisions and other acquisition statutes are outside this historical holding.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and later statutory changes have not been comprehensively verified. Descriptions of earlier decisions reflect their treatment in this judgment only.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 67](#)

SHA-256: 958b2c9334970dde663f92feec014992eddd31bc60fc9ce05be85039e774d3fe

[reported judgment - PDF pages: 60](#)

SHA-256: f7cc0ec03c75e125a11f4157e73484988b4c61d2df747bc7710f50d2faced3ea

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