

Union of India v. Rajeswari and Co. & Ors.

Civil Appeal No. 1689 of 1974 — Single special-leave appeal from Madras High Court Appeal No. 357 of 1965.

[1986] 3 SCR 175 | 1986-07-15

The Revenue could not avoid an asset sale under Transfer of Property Act section 53 merely because genuine creditors were paid preferentially and income-tax remained unpaid, where adequate consideration was applied to debts without a retained benefit for the debtor.

Transfer of Property Act, 1882 | 1922 Act: 34 (reassessment background)

2-judge bench | R.S. Pathak | Sabyasachi Mukharji

01 FACTS OF THE CASE

After proposed reopening of its 1956-57 to 1959-60 assessments under 1922 section 34, a loss-making company sold assets to Rajeswari and Co. and used the proceeds to pay creditors. Rs.28,240 of income-tax assessed in October 1961 remained unrecovered. The Union won a section 53 suit at trial, but the Madras High Court dismissed it.

Source: [SCR 175-180; physical PDF pages 1-6](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 53 did not itself require rateable payment of creditors. Preference was not fraudulent merely because another creditor lost, provided genuine debts were discharged for adequate value without a benefit reserved to the debtor. The findings supported those conditions. Allegations of undervaluation and director benefit had no supporting High Court findings; the Court would not reopen those factual questions absent ignored material evidence or perversity. Sale to a non-creditor was immaterial where proceeds actually paid genuine creditors.

Source: [SCR 175-180; physical PDF pages 1-6](#)

03 JUDICIAL DECISION

The High Court's dismissal of the Union's section 53 suit was sustained.

Source: [SCR 175-180; physical PDF pages 1-6](#)

04 OUTCOME / IN WHOSE FAVOUR

Respondent company and purchaser Union of India's appeal dismissed with costs; its attempt to impeach the sale failed. Substantive holding on the Transfer of Property Act section 53 civil suit for income-tax recovery; reassessment merits were not decided. No current-law or comprehensive later-treatment certification.

Source: [SCR 175-180; physical PDF pages 1-6](#)

05 AKHB REVIEW POINT

Separate a tax creditor's chosen civil remedy from any distinct statutory recovery or priority power. Establish consideration, genuine debts and retained benefit on evidence. The Court decided this section 53 suit, not the validity of the reassessments or a general immunity for transfers affecting tax recovery.

Source: [SCR 175-180; physical PDF pages 1-6](#)

ASSESSMENT YEARS AND LIMITS

Years: 1956-57; 1957-58; 1958-59; 1959-60

Qualification: Only years material to the issues described are listed; different claims may cover different years as stated in the facts.

REPORTED CITATION

Supplied SCR report citation; no machine-generated neutral citation substituted.

STATUTORY CONTEXT

Operative: Transfer of Property Act, 1882, section 53; Article 136 limits on factual interference. Indian Income-tax Act, 1922, section 34 is factual background only.

SOURCE & VERIFICATION

[Original reported Supreme Court judgment](#)

Unchanged supplied SCR report; catalog identifies a CC-BY-4.0 public eSCR mirror. Not represented as a separately fetched official signed PDF. Complete single-case report, physical pages 1-6, SCR 175-180; reasons begin on page 3 and end with dismissal on page 6. No neighboring-case text.

[Open cited source rendition](#)

The merits of reassessment and the existence of any distinct statutory tax-priority power were not adjudicated.

The headnote describes advance knowledge of reopening, while the reasons present that knowledge as a Revenue allegation denied by the company; it is not treated as an established finding.

STATUTORY SCOPE

Transfer of Property Act, 1882. The historical operative enactment is identified. Other enactment references are source context only unless expressly identified as operative; no 2025 mapping is asserted.

LATER TREATMENT

Source checked 2026-10-09. Subsequent appeals, review proceedings, stays, reversals and later treatment have not been comprehensively checked. This is not a citator status certificate.

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