

Surjit Lal Chhabda Vs Commissioner Of Income Tax

[1976 AIR 109]

Facts / Story:

- The appellant Surjit Lal was the owner of an immovable (अचल) property (self self-acquired) called Kathoke Lodge.
- He had 3 sources of income; share in the profit of 2 partnership firms, interest from banks and rent from "Kathoke Lodge".
- He had thrown Kathoke Lodge into the ~~family~~ family hotchpotch (गोलमाल) with the character of joint family property.
- He would be holding that property as the Karta of the JHF. Consisting of himself, his wife and one child. (unmarried daughter).
- The income which he received from that property should be assessed (मूल्यांकन) in the status of a Hindu Undivided Family.

Decisions:

- The income-tax authorities and the income tax appellate tribunal rejected that contention (विवाद) for varying (परिवर्तनीय) reasons

- held that in the absence of a nucleus of joint family property, there was nothing with which the appellant could mingle his separate property.
- There could not be a Hindu undivided family without there being undivided family property.

- Appellant carried the matter in appeal to the appeal to the Appellate Assistant Commissioner who differed from the income-tax officer on both the points but dismissed the appeal.

→ held that the income from that property could still be taxed in the appellant's hands as he was the sole ~~member~~ male member of the family.

Conclusions:

- Joint Hindu family could include a wife and unmarried daughters; But a sole male member could not constitute a Joint Hindu ~~for~~ family along with females.
- It was necessary for the formation of a JHF that there should be more than one male capable of claiming partition of the joint family property.
- a single male could form a JHF along with a coparcener's widow (समान उत्तराधिकारी) की विधवा) who is capable of making an adoption to her deceased (द्वर्गवासी) husband; but not with his own wife and unmarried daughter.