

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.

Indra Sharma v/s V.K.V. Sarma

[AIR 2014, (2013) 15 SCC 755]

Facts:

- Ms. Indra Sarma, an unmarried woman, left her job and began a "live-in" relationship with Mr. V.K.V. Sarma for a period of 18 years in a shared household.
- The appellant (Ms. Indra Sarma) was aware of the fact that the respondent (Mr. V.K.V. Sarma) was married.
- The respondent started a business in her name and they were earning from that business.
- Appellant became pregnant on three occasions, and all resulted in abortion.
- The respondent shifted the business to his residence and continued the business with the help of his son.
- Respondent abandoned (छोड़ देना) the appellant in a state where she could not maintain herself.

Decisions:

- Under the Protection of Women from Domestic Violence Act, 2005, (DV Act), failure to maintain a woman involves in a "domestic relationship" amounts to "domestic violence".
- Two lower courts held that Mr. VKV committed domestic violence by not maintaining Ms. Sarma, and directed the Respondent to a maintenance amount of Rs. 18000 per month.
 - The Karnataka HC held on ground that appellant was aware the respondent was married, thus her relationship with him would fall outside the protected ambit (संरक्षित सीमा) of "relationship in the nature of marriage" under the DV Act.
 - The SC, created an exception to the general rule and held that a woman who begins to live with a

man who is already married to someone else, without knowing that he is married, will still be considered to be in "domestic relationship" under the protection of DV Act.

- Thus, the man failure to maintain her will amount to "domestic violence" within the meaning of the Act and she will be eligible to claim relief such as maintenance and compensation.

Status of appellant:

- The relationship between the appellant and the respondent was not in a relationship in nature of marriage and the status of appellant was that of a concubine / mistress (342जी / 344जी / 229एल)
- Long standing relationship as a concubine, may at times, deserves protection because that woman might not be financially independent.

This case is important because it established for the first time such an exception and calls for legislative action to protect women like Ms. Sarma whose contributions in a joint household are often overlooked. (34न दे 291)

Section 2(f) of DV Act

"domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity (24न 24दे), marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.