Supreme Court of India
W. O. Holdsworth And Others vs The State Of Uttar Pradesh on 4 September, 1957
Equivalent citations: 1957 AIR 887, 1958 SCR 296
Author: N H Bhagwati
Bench: Bhagwati, Natwarlal H.

PETITIONER:
W. O. HOLDSWORTH AND OTHERS

Vs.

RESPONDENT:
THE STATE OF UTTAR PRADESH

DATE OF JUDGMENT:
04/09/1957

BENCH:
BHAGWATI, NATWARLAL H.
BENCH:
BHAGWATI, NATWARLAL H.
DAS, S.K.
GAJENDRAGADKAR, P.B.

CITATION:
1957 AIR 887 1958 SCR 296

ACT:
Agricultural Income-tax-Will--Trust-Annuities--Land held by trustee, whether on behalf of annuitants-Nature of interest Of annuitants, whether joint-Indian Trusts Act, 1882 (II of 1882),S. 3.- U. P. Agricultural Income-tax Act, 1948 (U. P. III Of 1949), SS. 2(11), 3, 11(1).

HEADNOTE:
Section 11(1) of the U. P. Agricultural Income-tax Act, 1948, provided: "Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of the sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received by him, shall be assessed on such common manager, receiver, administrator or the like, and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same."
The appellants were the trustees of an estate settled on

trust under a will which inter alia provided that the trustees were to take possession of the trust properties and to manage the same with all the powers of absolute owners and to pay the annuities to certain persons. The assessing authority assessed the appellants to agricultural income-tax upon the total agricultural income received by them, overruling their contention that the tax should be computed in accordance with the method of computation laid down in s. 11(1) of the Act and that they should be called upon to pay the aggregate of the sums payable as agricultural income-tax by each of the annuitants.

Held: (1) that the trustees who were the legal owners of the trust property did not hold the land from which agricultural income was derived, on behalf of the annuitants and that each of the annuitants was separately or individually interested in the agricultural income derived from the land comprised in the trust estate to the extent of the annuity payable to him.

(2) that s. 11(1) of the Act was not applicable to the case and that the appellants were liable to pay agricultural income-tax upon the total agricultural income received by them

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No.389 of 1956.

Appeal by special leave from the judgment and order dated April 19, 1955, of the Allahabad High Court in Agricultural Income-tax Miscellaneous Case No. 202 of 1952. G. S. Pathak and G. C. Mathur, for the appellants. K. L. Misra, Advocate-General of Uttar Pradesh, and C. P. Lal, for the respondent.

1957. September 4. The Judgment of the Court was delivered by BHAGWATI, J.-This appeal with special leave against the judgment of the High Court of Judicature at Allahabad raises a question of the interpretation of s. 11(1) of the U.P. Agricultural Income-tax Act, 1948, Act III of 1949 (hereinafter referred to as "the Act").

The appellants are the trustees of the estate settled on trust under the last will and testament dated May 17,1917, of one J. J. Holdsworth which, inter alia, comprised of a certain zamindari estate known as the Lehra Estate situate in the District of Gorakhpur, Uttar Pradesh. The clauses of the will so far as they are relevant for the purpose of this appeal provided that the trustees were to take possession of all real property in the United Provinces of Agra and Oudh and elsewhere in British India (including the houses at Lehra and Gorakhpur and the grounds thereof) and all live and dead stock in or about his estate in British India or any buildings thereon and the contents of any houses or stabling in British India belonging to him (which was called his estate) and manage the same in all respects and in such manner as they shall deem most advan. tageous and with all the powers of absolute owners. The trustees were to stand possessed of the net rents and profits of the settled

estate after payment of the Government land revenue tax, and of all management expenses, upon trust to pay thereout certain annuities to 12 annuitants therein mentioned. If the net rents and profits of the said estate were less than seventy thousand rupees in any year or if the said estate or any portion thereof shall be sold at less than twenty years purchase of the net rent of seventy thousand rupees or an equivalent proportion thereof in respect of the proportion so sold, the annuities bequeathed as above and for the time being payable except annuities Nos. (1), (2) and (3) were to abate proportionately and no such annuitant was entitled to have the deficiency of his or her annuity made good out of the rents and profits of the said estate in respect of any subsequent year. If there was no survivor alive then it was to go William Orlando Holdsworth, the son of the testator. Seven of the said annuitants died and at the relevant period the following annuities werepayable:

(i) Mrs. J. C. Holdsworthpound 2,500/-

(ii) Mr. W. 0. Holdsworthpound 1,000/-

(iii) Miss Lucy Marion Holdsworthpound 50/-

(iv) Lt. Col. L. R. J. C. Wilkinsonpound 500/-

(v) Mr. Horace Claud Holdsworthpound 400/ - The trustees entered upon the trust and managed the trust properties in accordance with the terms of the said will. The Act came into force in 1949 and a notice of assessment of agricultural income-tax was issued to the trustees for the year 1357 Fasli (1949-50).

The Additional Collector, Gorakhpur, the assessing authority for the area in question, by his order dated December 14, 1950, assessed the' trustees to agricultural income-tax upon the total agricultural income received by them, overruling their contention that the tax should be computed in accordance with the method of computation laid down in s. 11(1) of the Act and that they should be called upon to pay the aggregate of the sums payable as agricultural income-tax by each of the five annuitants.

The trustees preferred an appeal before the Agricultural Income-tax Commissioner, Lucknow, who by an order dated November 22, 1951, upheld the order of the Additional Collector. He observed that the beneficiaries were neither jointly interested in the land held by the trustees nor in the agricultural income derived therefrom, and that the agricultural income of the Lehra Estate accrued to the trustees and not to the beneficiaries directly as it left the hands of the various tenants who paid rent or from self- cultivation that was done by the trustees themselves., The trustees then moved an application under a. 24 (2) of the Act before the Agricultural Income-tax Board, U.P., for reference of certain questions of law to the High Court for its decision. The said Board however decided to act, under the third proviso to s. 24(2) of the Act and to considerthe questions of law itself instead of referring them to the High Court for its decision. In the exercise of this power the Board held inter alia that the entire property vested in the trustees and that the latter could not claim the benefit of s. 11 of the Act and refused to make a reference. The trustees moved an application under s. 24(4) of the Act before the High Court of Judicature at Allahabad praying that

the High Court may be pleased to require the Agricultural Income-tax Board, U.P., Lucknow, to state a case and to refer to the High Court certain questions of law arising in the case. The application was allowed by the High Court on February 5, 1953, and an order was passed directing the said Board to refer the relevant question of law to the High Court.

Accordingly a statement of case was drawn up by the Agricultural Income-tax Board and submitted to the High Court and the following question of law was referred for its decision:

" Whether on the facts and in the circumstances of the case the trustees can be said to be holding land on behalf of beneficiaries and can the beneficiaries be said to be jointly interested in the land or in the agricultural income derived therefrom within the meaning of Section 11 (1) of the U.P. Agricultural Income-tax Act, 1948 ?" The said reference was heard by the High Court and by its judgment dated April 19, 1955, the High Court held that the trustees could be said to be holding land on behalf of beneficiaries but the beneficiaries could not be said to be jointly interested in the land or in the agricultural income derived therefrom within the meaning of s. 1 1 (1) of the Act and accordingly answered the first part of the question in the affirmative and the latter half in the negative.

Thereupon the trustees filed an application before the High Court under Art. 133(1) of the Constitution for leave to appeal to this Court which was rejected with the result that the trustees applied for and obtained on April 16, 1956, special leave to appeal against the judgment of the High Court.

Section 11(1) of the Act which falls to be considered by us runs as under:

" Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of the sums payable as agricultural income-tax by each person on the agricultural income derived from such land and, received by him, shall be assessed on such common manager, receiver, administrator or the like, and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be-liable to pay the same."

This section concerns itself with the mode of computation of agricultural income-tax in certain cases. The charging section is however s. 3 of the Act which talks of agricultural income-tax and super-tax at the rate or rates specified in the schedule to be charged for each year in accordance with, and subject to the provisions of the Act..... and rules framed under cls. (a), (b) and (c) of sub-s. (2) of s. 44, on the total agricultural income of the previous year of every -person. "1 Person " is defined in s. 2(11) to mean an individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for that of another, either as owner, trustee, receiver, manager, administrator, or executor or in any capacity recognized by law, and includes an undivided Hindu family, firm or company but not to include a local authority. According to the above definition the trustees before us would be included in the definition of "

person " and would as such be liable to agricultural income-tax under the charging section. That liability to pay income-tax would however be on the trustees as a "person" without anything more. Where however s. 11(1) comes into operation the agricultural income-tax would be assessed not on the ordinary computation but on the computation specified therein which has the effect of reducing the incidence of the tax by reason of the person being liable to pay only the aggregate of the sums payable as agricultural income-tax by each of the persons jointly interested in such land or in the agricultural income derived therefrom. Two conditions are requisite before s. 11 (1) can come into operation: (1) that the person holds land from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of other persons and (2) such persons should be jointly interested in such land or in the agricultural income derived therefrom. If both these conditions are satisfied the person holding such land is liable to be assessed in the manner specified in s. 11(1) of the Act and the aggregate of the sums payable as agricultural income-tax by each of these persons jointly interested on his share of the agricultural income derived from such land and actually received by him is to be assessed on such common manager, receiver, administrator or the like, and the latter is to be deemed the assessee in respect of the agricultural income- tax so payable by each such person and is liable to pay the same.

It is to be noted that the primary liability for the payment of agricultural income-tax is on the person who is interested in the land or in the agricultural income derived therefrom. The incidence of the tax is on that person and the amount of tax is determined with reference to the aggregate income derived by him. Inasmuch as however such land is held by some other person who@ is a common manager, receiver, administrator or the like on behalf of such person and others jointly interested in such land or in the agricultural income derived therefrom, the agricultural income-tax is assessed on such common manager, receiver, administrator or the like instead of the assessment being made on each of such persons who is jointly interested in such land or, in the agricultural income derived therefrom. Section 11.(1) prescribes a mode of assessing such common manager, receiver, administrator or the like and he is deemed to be the assessee in respect of agricultural income-tax so payable by each such person and is liable to pay the same.

Such common manager, receiver, administrator or the like would certainly be covered by the definition of person contained in s. 2(11) of the Act because he would be holding property for others as receiver, manager, administrator or the like and would be liable to pay the agricultural income-tax on the agricultural income derived by him from the land which he thus held. If there was nothing more, the incidence of the tax would be on the total income which has come to his hands. But, in so far as he holds the land from which agricultural income is derived as such common manager, receiver, administrator or the like on behalf of the persons jointly interested in such land or in the agricultural income derived therefrom, the agricultural income-tax is levied not on the computation of the whole agricultural income which has come to his hands but if; limited to the aggregate of the sums payable as agricultural income-tax by each of the persons jointly interested in such land or in the agricultural income derived therefrom and received by him. The agricultural income-tax in such cases is determined with reference to each of the persons jointly interested in such land or in the agricultural income derived therefrom, and the agricultural income-tax payable by each of such persons is computed on the actual amount of the agricultural income derived from such land and

received by him and the aggregate of the sums payable as agricultural income-tax by each of such persons is assessed on such common manager, receiver, administrator or the like with the result that he pays agricultural income-tax which would be substantially lower than what he would have otherwise had to pay if the computation of such tax was on the total agricultural income derived from such land and come to his hands. Such common manager, receiver, administrator or the like would in the course of management or administration of such land debit to the account of each such person an aliquot share of the whole of the agricultural income-tax paid by him. If such common manager, receiver, administrator or the like were assessed on the total income derived from the land which comes to his hands, the amount thus debited to each of such persons would be larger than the amount which the latter would have to pay by way of agricultural income-tax, if agricultural income-tax was levied on the actual amount of agricultural income derived from such land and received by him as falling to his share. This provision therefore is designed to lower the incidence of the agricultural income- tax upon each such person and such common manager, receiver, administrator or the like by virtue of these provisions is deemed to be the assessee in respect of agricultural income- tax so payable by each such person and is made liable to pay the same.

This position however is not available unless and until such common manager, receiver, administrator or the like holds, the land from which agricultural income is derived on behalf of persons jointly interested in such land or in the agricultural income derived therefrom. Such common manager, receiver, administrator or the like should hold the land on behalf of these persons and not on his own behalf. The very words " on behalf of " predicate that the land is held by such common manager, receiver, administrator or the like not as the owner but as the agent or representative of these persons and he manages or administers the same either in accordance with law or the terms of the agreement arrived at between the parties. There is no vestige of ownership in him and all that he is entitled to do is to manage or administer the land on behalf of persons who are jointly interested in the agricultural income derived therefrom. This could be predicated of receivers managers, administrators or the like but cannot be predicated of owners or trustees who are equally with the manager, receiver, administrator or the like included within the definition of " person "- contained in s. 2(11) of the Act. The case of the owner does not require any elaboration. He holds the land on his own behalf and also for his own benefit. Ho certainly cannot come within the scope of s. 1 1 (1) of the Act. The position of a trustee is also similar to that of the owner. A trust is thus defined in English Law:

" A trust in the modern and confined sense of the word, is a confidence reposed in a person with respect to property of which he has possession or over which he can exercise a power to the intent that he may hold the property or exercise the power for the benefit of some other person or object." (Vide Halsbury's Laws of England, Hailsham Ed., Vol. 33, p. 87, para. 140).

" The property affected by the confidence is called the trust property or trust estate. It is usually in the legal ownership or under the legal control of the trustee. The cestui que trust is said to have a beneficial or equitable interest in it." (Ibid p. 89 para. 142).

A trustee is thus usually the legal owner of the trust property or the trust estate and holds it for the benefit of the certui que trust.

Reliance was however placed upon an observation of Sir John Romilly, M. R., in Lister v. Pickford (1) " A trustee, who is in possession of land is so on behalf of his cestuis que trust, and his making a mistake as to the persons who are really his cestuis que trust cannot affect the question."

What the Court was considering there was the question of limitation and adverse possession and these observations were made in that context. It is significant however to note the further observations of the Master of the Rolls in that very context at p. 583:

" Suppose that they had imagined bona fide that they themselves were personally entitled to the property, and that they were not trustees of it for anyone, it would, nevertheless, have-been certain that they would (1) (1865)34 Beav. 576, 582; 55 E.R. 757.

have been trustees for the cestuis que trust, and no time would run while they were in such possession. The legal estate was vested in them, no other person could have maintained an ejectment against them; they are bound to know the law, they ought to have taken possession as soon as they saw who were the real beneficiary devisees, and, being in possession, they ought to have applied the proper proportion of the rents for the benefit of such residuary devisees." The passage quoted above makes it abundantly clear that the legal estate is vested in the trustees and they hold it for the benefit of the beneficiaries.

Whatever be the position in English Law, the Indian Trusts Act, 1882 (II of 1882) is clear and categoric on this point. Section 3 of that Act defines a Trust as an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner: the person who accepts the confidence is called the "trustee": the person for whose benefit the confidence is accepted is called the "beneficiary": "the beneficial interest" or "interest" of the beneficiary is his right against the trustee as owner of the trust property; the subject matter of the trust is called "trust property" or "trust money."

These definitions emphasize that the trustee is the owner of the trust property and the beneficiary only has a right against the trustee as owner of the trust property. The trustee is thus the legal owner of the trust property and the property vests in him as such. He no doubt holds the trust property for the benefit of the beneficiaries but he does not hold it on their behalf. The expressions " for the benefit of " and " on behalf of " are not synonymous with each other. They convey different meanings. The former connotes a benefit which is enjoyed by another thus bringing in a relationship as between a trustee and a beneficiary or cestui que trust, the latter connotes an agency which brings about a relationship as between principal and agent between the parties, one of whom is acting on behalf of another. Section 11(1) therefore can only come into operation where the land from which agricultural income is derived is held by such common manager, receiver, administrator or the like on behalf of, in other words, as agent or representative of, persons jointly interested in such land or in the agricultural income derived therefrom. Even though such persons were the beneficiaries cestui que trust under a deed of trust, they would not be comprised within the category of persons on whose behalf such land is held by the trustees and the trustees would not be included in the description of common manager, receiver, administrator or the like so as to attract the operation of

s. 11(1). Trustees do not hold the land from which agricultural income is derived on behalf of the benefi- ciaries but they hold it in their own right though for the benefit of the beneficiaries.

The beneficiaries are also not necessarily persons who are jointly interested in such land or in the agricultural income derived therefrom. The term "jointly interested" is well-known in law and predicates an undivided interest in the land or in the agricultural income derived therefrom as distinguished from a separate or an individual interest therein. If on a true reading of the provisions of the deed of trust the interest which is created in the beneficiaries is a separate or individual interest of each of the beneficiaries in the land or in the agricultural income derived therefrom, merely because they have a common interest therein, that cannot make that interest a joint interest in the land or in the agricultural income derived therefrom. The words "jointly interested" have got to be understood in their legal sense and having been used in a statute are not capable of being understood in a popular sense as meaning a common interest or an interest enjoyed by one person in common with another or others. If regard be bad to the above construction put upon the terms of s. 11 (1) of the Act, it follows that the appellants who were trustees of the deed of trust in the present case did not hold the land from which agricultural income is derived as common manager, receiver, administrator or the like on behalf of the annuitants and the annuitants were not jointly interested in the land or in the agricultural income derived therefrom with the result that s. 11(1) of the Act did not come into operation at all. The appellants were the legal owners of the trust estate and did not hold the land from which agricultural income was derived "on behalf of" the annuitants. Each of the annuitants, moreover, was separately or individually interested in the agricultural income derived from the land comprised in the trust estate to the extent of the annuity payable to him under the deed of trust and the interest of one annuitant was not affected by whatever happened to the interest of the other. There was thus no fulfilment of either of the two conditions pre-requisite before s. 11(1) of the Act could come into operation at all. The learned judges of the High Court were therefore in error in answering the first part of the question referred to them in the affirmative, though their answer to the latter part in the negative was correct. We are of opinion that both the parts of the question should have been answered by them in the negative. The ultimate result however is the same and this appeal of the appellants is therefore bound to fail. The appeal will accordingly stand dismissed with costs.

Appeal dismissed.