

Chaudhuri Raghubans Narain Singh

Vs

The State of U. P. and Others

Civil Appeal Nos. 1171 to 1177 of 1968

(K.S. Hegde, H.R. Khanna JJ)

12.10.1971

JUDGMENT

HEGDE, J. -

1. These appeals by certificate raise common questions of law. One of the questions that was canvassed before the High Court was whether the appellant had separated himself from the rest of the family namely his sons, in view of the relinquishment deed alleged to have been executed by him on August 24, 1948. The said deed was not before the High Court. Therefore, the High Court was not able to come to any firm decision on that point. That question has to be decided afresh in an appropriate proceeding after taking into consideration the terms of the deed as well as the other evidence bearing on the subject. The finding of the High Court in that regard cannot be taken as conclusive in view of the fact that all the material was not before the High Court.
2. The other contention taken before the High Court was whether as a result of the alleged relinquishment of his rights by the appellant in his family properties it should be deemed that there was a general partition in the family. This contention has no legal basis as held by the High Court. The relinquishment of his rights in the family property by one of the members of the family does not result in a general partition in the family. It is not necessary to refer to decided cases on this point. It is a well accepted position.
3. No other question was raised before the High Court. In our opinion, the High Court was not justified in entertaining these Writ Petitions. The questions that arose for decision were questions that could have been decided under the provisions of the U.P. Agricultural Income Tax Act by the authorities constituted under that Act. The High Court should have allowed those questions to be decided at the first instance by the authorities under the Act.
4. On the basis of the finding of the High Court it is clear that the assessments impugned in these appeals are assessments made on an H.U.F. and not on the appellant individually. The learned Counsel for the Revenue represented that in enforcement of these assessments the Revenue will not proceed against the appellant personally or against his personal property. This assurance should be sufficient to remove the apprehension of the appellant.
5. For the reasons mentioned above these appeals fail and they are dismissed. But, in the circumstances of the case, we make no order as to costs.

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