

Gaj Singh

v.

Settlement Commissioner

(Supreme Court Of India)

HON'BLE MR. JUSTICE M.B. SHAH HON'BLE MR. JUSTICE RUMA PAL  
HON'BLE MR. JUSTICE S.P. BHARUCHA

Civil Appeal No. 895 Of 1991 To 911 Of 1991 | 19-07-2000

H.B. SHAH, J.

BY THE COURT

Under challenge before us is an order passed by the Settlement Commission in respect of the assessee-appellant, Gaj Singh, the erstwhile Maharaja of Jodhpur. Leave was granted restricted to the following three questions

"(1) Whether the immovable properties (referred to in para 7 of the Settlement Commission's order should be valued under r. 1BB even for assessment years prior to 1979-80;

(2) Whether the value of the Sardar Samand Palace is exempt from wealth-tax under s. 5(1)(iv) or (ivb) of the WT Act, 1957;

(3) Whether the value of the Jodhpur Fort is exempt under s. 5(1)(xii) of the WT Act, 1957." \*

It is not in dispute that the first question must be answered in the affirmative and in favour of the assessee being covered by the decision of this Court in CWT vs. Sharvan Kumar Swarup & Sons.

As to the second question, s. 5 of the WT Act states that "wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee ..... (iv) one house or part of a house belonging to the assessee ..... (ivb) one building or one group of buildings owned by a cultivator of, or receiver of rent or revenue out of, agricultural land : Provided that such building or group of buildings is on or in the immediate vicinity of the land and is required by the cultivator or the receiver of rent or revenue, by reason of his connection with the land" \*

The assessee opted to adopt the Umed Bhavan Palace as his house for the purposes of exemption under s. 5(1)(iii), which is specific for the purpose. It is difficult to see how he could seek exemption for another house namely, the Sardar Samand Palace under cl. (iv) Insofar as cl. (ivb) is concerned, the only material that learned counsel for the assessee relies upon is the argument of the assessee's representative before the Commission that the Sardar Samand Palace was situated in the Sardar Samand village, in the vicinity of the assessee's agricultural land and that it was used as "a dwelling unit, stalls and cattle sheds". The Commission has not delivered any finding in regard to cl. (ivb) because, as is apparent, the claim of the assessee before it was not based thereon. It was only because of the statement of the assessee's representative, quoted above, which seemed to meet the requirements of cl. (ivb) that the argument was advanced before us. In any event, a statement of that nature is not proof of any kind. The claim under cl. (ivb) is rejected

As to the third question, the argument is that the Jodhpur Fort is exempt under cl. (xii) of s. 5(1). That clause reads :

"any works of art, archaeological, scientific or art collections, books or manuscripts belonging to the assessee and not intended for sale" \*

The Jodhpur Fort is an archaeological site; it is not an archaeological collection or book or manuscript, and therefore, the exemption under cl. (xii) is not available

Accordingly, the first question is answered in the affirmative and in favour of the assessee. The second and third questions are answered in the negative and in favour of the Revenue

Order on the Civil Appeals accordingly.

No order as to costs.