(1990) 08 BOM CK 0051

In the Bombay High Court

Case No : Income-tax Application No. 157 of 1988

Commissioner of Income Tax — APPELLANT

Vs

Vimal Lalchand Mutha — RESPONDENT

Date of Decision : 07-08-1990

Acts Referred:
Income Tax Act, 1961 — Section 256(2)

Citation : (1991) 187 ITR 613

Hon'ble Judges : Sujata V. Manohar, J;D.R. Dhanuka, J

Bench : Division Bench

Advocate : G.S. Jetley, for the Appellant; K.B. Bhujale, for the Respondent

Judgement

Mrs. Sujata v. Manohar J.

1. The assessee had entered into an agreement on November 8, 1977, for purchase of a flat on the 11th floor, 112-A, Mittal Towers, Nariman Point, Bombay, with Bharat Trading Corporation on December 4, 1978. She obtained possession of the flat in June, 1981. No conveyance, however, was executed either in her favour or in favour of the co-operative society of the said building or any limited company in respect of the said building.

2. She entered into an agreement dated April 28, 1983, with Chanrai Uttamchand transferring her right, title and interest in the said flat to Chanrai Uttamchand. The assessee has thus transferred all her rights under the agreement of November 8, 1977, and/or December 4, 1978, in favour of Chanrai Uttamchand by virtue of the agreement dated April 28. 1983, between the assessee and Chanrai Uttamchand. The assessee thus held rights under the said two agreements of November 8, 1977/December 4, 1978, for more than 36 months before transferring the same. The Tribunal has, therefore, rightly come to the conclusion that the capital gains were long-term gains. In view of these facts and the findings recorded by the Tribunal, there is no statable question of law. We therefore, discharge the rule.

3. No order as to costs.