

land and the High Court has cognizance in its ordinary original civil jurisdiction.

I would be guilty of repetition, if I added anything further to the judgments which have just been delivered.

VELLIAPPA
CHETTIAR
v.
GOVINDA
DASS.
MACKAY, J.

B.C.S.

SPECIAL BENCH.

*Before Mr. Justice Kumaraswami Sastri, Mr. Justice
Ogden and Mr. Justice Wallace.*

ZAMINDARNI OF TIRUVUR, ASSESSEE,

1929,
March 15.

v.

COMMISSIONER OF INCOME-TAX, REFERRING
OFFICER.*

*Sec. 2 (1) of the Indian Income-tax Act (XI of 1922)—
Agricultural income.*

The fact that a certain pecuniary legacy bequeathed by a zamindar has to be paid by his executor out of agricultural income does not make the legacy an "agricultural income" within section 2 (i) of the Indian Income-tax Act (XI of 1922).

In the matter of the income-tax assessment of Vellanki Lakshmi Narasayamma Rao Bahadur, Zamindarni of Tiruvur. Reference under section 66 (2) of the Indian Income-tax Act (XI of 1922).

The facts are given in the Judgment.

V. Govindarajachari and Y. Govindarajulu for assessee.— This allowance is charged on the lands; hence it is agricultural income. Even if it is not charged, what is paid as allowance is the "rent" derived from the lands. See section 2 (1) (a) and section 4 (2) (8).

M. Patanjali Sastri for Referring officer, not called upon.

ZAMINDARI
OF TIRUVUR

v.
COMMISSIONER OF
INCOME-TAX.

JUDGMENT.

The only question in this case is whether the legacy received by the assessee under the terms of her father's will and in respect of which she got a decree is exempt from the payment of income-tax being "agricultural income." Her father was the Zamindar of Gannavaram and he executed a will which is annexed as Exhibit C. Under the will he appointed his wife as the executrix, gave her a life-estate in the property and directed her to give his daughters a sum of Rs. 600 each per month. This sum of Rs. 600 was not paid and it fell into arrears. The daughter got a decree for Rs. 80,000 in the Sub-Court of Bezvada and this sum is taxed as income.

It is argued for the assessee that she got a rent-charge on the income of the estate in respect of the amount that the executrix had to pay and that this sum of Rs. 600 should be treated as "agricultural income" as defined in section 2, clause (1). We think that this legacy cannot be brought under that clause and that she was rightly assessed on the amount she realized as arrears of maintenance. We answer the reference accordingly and direct that the assessee should pay Rs. 250 as costs of this reference.

N.R.
