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(2013) 101 ALR 349 : (2014) **32 LCD 1337** : (2013) 121 RD 1  
**ALLAHABAD HIGH COURT (LUCKNOW BENCH)**

SINGLE BENCH

NEETU AGARWAL — Appellant

Vs.

COMMISSIONER, DEVI PATAN MANDAL GONDA — Respondent

( Before : Shri Narayan Shukla, J. )

W.P. No. 6600 (MS) of 2009.

Decided on : 17-12-2009

**A. Indian Stamp Act, 1899 — Section 56(1-A) — Jurisdiction — "Chief Controlling Revenue Authority" — Delegation of power — The Chief Controlling Revenue Authority, specified under Section 56(1-A) as having appellate power, is not defined within the Indian Stamp Act itself. (Para 2, 3)**

**B. General Clauses Act, 1897 — Section 3(10) — "Chief Controlling Revenue Authority" — Interpretation — Section 3(10) of the General Clauses Act defines "Chief Controlling Revenue Authority" or "Chief Revenue Authority" as either the Board of Revenue (where one exists) or the Revenue Commissioner (where no Board exists). (Para 3)**

**C. Indian Stamp Act, 1899 — Section 56(1-A) — Read with General Clauses Act, 1897 — Section 3(10) — Hierarchy of Revenue Authorities — Where a Board of Revenue exists in a State, such as in Uttar Pradesh, it is the sole "Chief Controlling Revenue Authority" for the purpose of exercising appellate powers under Section 56(1-A) of the Indian Stamp Act, 1899. (Para 5, 6)**

**D. Jurisdiction — Revenue Commissioner — Appellate power — An order passed by a Revenue Commissioner exercising appellate power under Section 56(1-A) of the Indian Stamp Act, 1899, is without jurisdiction if a Board of Revenue exists in the State, even if per Circular, the Commissioner might have**

## pecuniary jurisdiction over the matter. (Para 4, 6)

Final Result : Allowed

### JUDGMENT

**Shri Narayan Shukla, J.**—Heard Dr. L.P. Mishra, learned counsel for the petitioners and Mr. Jaideep Narain Mathur, learned Additional Advocate General.

2. The petitioners have challenged the order dated 13th of November, 2009, passed by the Commissioner, Devi Patan Division, Gonda, inter alia on the ground of jurisdiction. The learned counsel for the petitioners submits that under Section 56(1-A) of the Indian Stamp Act, 1899 it is the Chief Controlling Revenue Authority who is empowered to exercise the appellate power, whereas in the present case it is the Revenue Commissioner, who has passed the order, accordingly he submits that the order is without jurisdiction and is unsustainable. He further submits that the power of appeal, provided under Section 56(1-A) of the Act, cannot be delegated to other authority as under Section 76-A of the Act it is not provided so.

3. In reply Mr. J.N. Mathur, learned Additional Advocate General disputed the contentions of the learned counsel for the petitioners with the submission that though there is no provision of delegation of power provided under Section 56 (1-A) of the Act and definitely it has to be exercised by the Chief Controlling Revenue Authority, but he submits that under the Indian Stamp Act, the Chief Controlling Revenue Authority has not been defined, whereas under the General Clauses Act under Section 3 (10) it is defined as under:-

"(10) "Chief Controlling Revenue Authority" or "Chief Revenue Authority" shall mean-

(a) in a State where there is a Board of Revenue, the Board;

(b) in a State where there is Revenue Commissioner, that Commissioner;

(c) in Punjab, the Financial Commissioner; and

(d) elsewhere, such authority as in relation to matters enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and in relation to other matters, the State Government, may, by notification in the Official Gazette, appoint;

4. In the light of the aforesaid provisions he submits that once the Chief Controlling Revenue Authority is meant as Board of Revenue as well as Revenue Commissioner, both the Board of Revenue and Revenue Commissioner are fully competent to exercise the power of the Chief Controlling Revenue Authority. He further submits that under the Circular the power of the Board of Revenue as well as the Revenue Commissioner has been demarcated in the light of the value of the suit/case and since the case in hand

according to its pecuniary jurisdiction was cognizable by the Revenue Commissioner, the same was remanded by the Board of Revenue to the Revenue Commissioner, thus the Revenue Commissioner has exercised the power of the Chief Revenue Authority.

5. Disputing the aforesaid interpretation, as made by the learned Additional Advocate General, Dr. Mishra submitted that where there is the Board of Revenue only the Board shall be meant as Chief Controlling Revenue Authority, in absence of whom only a Revenue Commissioner can exercise the said power. He further submits that the definition of Chief Controlling Revenue Authority has been given by the legislation by taking care that this power should be vested with the highest revenue authority of the State either it is the Board of Revenue or the Revenue Commissioner and once being highest authority of revenue the Board of Revenue is available in the State, the said power is not available to be exercised by the Revenue Commissioner.

6. After hearing the learned counsels for the parties as well as going through the provisions of Indian Stamp Act, 1899 as well as General Clauses Act, I am of the view that the definition of Chief Controlling Revenue Authority has been given under the General Clauses Act as to mean the highest Revenue Authority as it speaks that Chief Controlling Revenue Authority or Chief Revenue Authority shall mean that in a State where there is a Board of Revenue, the Board; in a State where there is Revenue Commissioner, that is the Commissioner, meaning thereby once the Board of Revenue is available in the State being highest authority of Revenue, definitely, only the Board of Revenue shall exercise the power of the Chief Controlling Revenue Authority. In the State of U.P. Board of Revenue is available to exercise the power of Chief Controlling Revenue Authority. Since in the case in hand the said power has been exercised by the Commissioner, I am of the view that the same is without jurisdiction, therefore, I hereby quash the order impugned dated 13th of November, 2009 passed by the Commissioner, Devi Patan Division, Gonda with the direction that the record of appeal shall be sent to the Board of Revenue for disposal of appeal, who shall decide the same after noticing the parties concerned.

7. In the aforesaid terms the writ petition is allowed.