

HIGH COURT OF JUDICATURE AT ALLAHABAD

AFR

Reserved on 15.4.2008

Delivered on 29.4.2008

**Civil Misc. Writ Petition No.40986 of 2001
Brahm Singh Vs. Board of Revenue & others.**

With

**Civil Misc. Writ Petition No.40983 of 2001
Fateh Mohd Vs. Board of Revenue & others.**

And

**Civil Misc. Writ Petition No.36051 of 2001
Jitendra Nath & others Vs. State of U.P. & others.**

And

**Civil Misc. Writ Petition No.40862 of 2001
Ram Sareekh Vs. Commissioner & others.**

And

**Civil Misc. Writ Petition No.39916 of 2001
Jahiruddin Urf Lattoo & others Vs. Collector & others.**

And

**Civil Misc. Writ Petition No.30647 of 1996
Hari Nandan Vs. Board of Revenue & others.**

And

**Civil Misc. Writ Petition No.20508 of 2001
Mukti Nath & others Vs. The Board of Revenue & others.**

And

**Civil Misc. Writ Petition No.20482 of 2000
Radhey Kishan & others Vs. Additional Commissioner & others.**

And

**Civil Misc. Writ Petition No.1965 of 2000
Amar Bahadur Vs. Smt. Sugna Devi & others.**

And

**Civil Misc. Writ Petition No.4549 of 1995
Shyam Narain & others Vs. Board of Revenue & others.**

And

**Civil Misc. Writ Petition No.9097 of 2001
Sheshdhar Vs. Board of Revenue & others.**

**Hon'ble S. Rafat Alam, J.
Hon'ble R.K. Agarwal, J.
Hon'ble Ashok Bhushan, J.**

(Delivered by Hon'ble S. Rafat Alam, J.)

In all the aforesaid writ petitions the controversy is common and the order of the Additional Collector passed in a proceeding under Section 198 (4) of the U.P.Z.A. and L.R. Act, 1950 (hereinafter referred to as 1950 Act), is under challenge on the ground that he has no jurisdiction or authority under Section 198 (4) of the Act to exercise the power of Collector and thus, the order of cancellation of allotment of land in favour of the petitioners being without jurisdiction, is to be set aside. During the course of argument the Hon'ble Single Judge having been confronted with two different views of the Benches of coordinate jurisdiction, in the case of Shiv Avtar Vs. Nabi & others, reported in 1995 ACJ 1313 = 1996 RD 190; and in the case of Brij Kishore & others Vs. Atrikta Ziladhikari & others, reported in 1986 ALJ 1248, referred the following questions vide order dated 21.12.2001 to a Larger Bench: -

(1) Whether under Section 198(4) of U.P. Zamindari Abolition & Land Reforms Act, 1950, the power of Collector can be exercised by Additional Collector; and

(2) Which of the Division Bench i.e., 1996 RD 190-Shiv Avtar Vs. Nabi & others or 1986 ALJ 1248-Brij Kishore & another Vs. Atrikta Ziladhikari, Kanpur & others laid down the correct law ?

Consequently, Hon'ble the Chief Justice under Chapter V Rule 6 of the Rules of the Court referred the above questions to the Full Bench consisting of three Hon'ble Judges.

In Writ Petition Nos.40986 of 2001 and 40983 of 2001, the order of the Additional Collector setting aside the allotment/lease of agricultural land in favour of the respondents in exercise of power under Section 198 (4) of 1950 Act have been set aside in the appeal by the Commissioner and in revision by the Board of Revenue. The Board of Revenue in the impugned order has relied on a Division Bench judgment of this Court in the case of Shiv Avtar Vs. Nabi & others (supra) wherein it has been held that under Section 198 (4) of 1951 Act the power of cancellation of agricultural lease can only be exercised by the Collector. Therefore, the contention before the Hon'ble Single Judge in these two writ petitions were that in the case of Shiv Avtar Vs. Nabi & others (supra) the earlier Division Bench of this Court in the case of Brij Kishore & others Vs. Atrikta Ziladhikari & others (supra) has not been noticed nor the provisions contained in Section 14-A of the U.P. Land Revenue Act, 1901 (in short 1901 Act) has taken note of, which clearly contemplates that the 'Additional Collector' will be treated as 'Collector' for the purposes of 1950 Act while exercising the power of the 'Collector' and thus, the Additional Collector can exercise power of Collector under Section 198 (4) of 1950 Act because he acts as Collector in the said proceeding, whereas in the remaining writ petitions the order of cancellation has been challenged on the ground that the Additional Collector cannot exercise jurisdiction of Collector under Section 198 (4) of 1950 Act and thus, the order impugned are without jurisdiction. Since the writ petitions involve common point, they were clubbed and heard together by the Hon'ble Single Judge. The Hon'ble Single Judge found that the Division Bench of this Court in the case of Shiv Avtar Vs. Nabi & others (supra) has not considered the provisions of Section 14-A (4) of 1901 Act nor noticed the earlier Division Bench judgment in the case of Brij Kishore & others Vs. Atrikta Ziladhikari & others (supra) wherein it was held that an Additional Collector is empowered to exercise the functions of Collector in view of the provisions contained in Section 14-A (3) of 1901 Act. This is how the aforesaid two questions are before us.

We have heard Sri R.B. Singhal, learned counsel appearing for the petitioner in Civil Misc. Writ Petition Nos.40986 of 2001 and 40983 of 2001; Shri S.K. Chaturvedi, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.30647 of 1996; Shri Some Narain Mishra, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.9097 of 2001; Shri Madan Mohan Srivastava, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.36051 of 2001; Shri Anoop Mishra, Advocate holding brief of Shri Rakesh Bahadur Singh, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.20508 of 2001; Shri Satish Chandra, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.1965 of 2000; Shri B.B. Paul, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.4549 of 1995; Shri J.A. Azmi, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.40862 of 2001; Shri D.K.S. Rathore, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.39916 of 2001; Shri Sankatha Rai, learned counsel appearing for the petitioner in Civil Misc. Writ Petition No.20482 of 2000; Shri Sanjay Goswami and Shri M.C. Singh, learned counsel for the respondents and Shri V.K. Singh, learned counsel appearing for the Gaon Sabha.

Sri R.B. Singhal, learned counsel for the petitioner submitted that when the Collector in exercise of power and discharge of his duties, delegates his function to the Additional

Collector, then for all practical purposes the Additional Collector acts as Collector within the meaning of sub-section (4) of Section 14-a of 1901 Act and since sub-section (4) of Section 3 of 1950 Act while defining the word "Collector", refers the U.P. Land Revenue Act, therefore, the order of Additional Collector in exercise of functions and duties of the Collector under 1901 Act or under any other Act of the State would be deemed to be an order passed by the Collector under that Act. It is contended that as per definition under Section 3 (4) of 1950 Act the Collector for all practical purposes is an officer under the provisions of 1901 Act; Section 14 provides about the appointment of Collector in each district, who shall throughout the district, exercise all the powers and discharge all the duties conferred and imposed on a Collector under that Act or any other law for the time being in force. The argument proceeds that the reference of any other law for the time being in force undoubtedly includes 1950 Act. He further submits that Section 14 of this Act cannot be read in isolation for the reason that because of Section 3 of Section 14-A, if the Collector in exercise of his power and discharge of his duties delegates his power to the Additional Collector, then for all practical purposes the Additional Collector is Collector within the meaning of Section 14 of the Act and also in view of the definition of Collector under 1950 Act. He further drew our attention to the explanation of Section 122-B (4-e) of 1950 Act and also referred the definition of the word "Collector" given in other Acts of the State, such as, U.P. Panchayat Raj Act, 1947, U.P. Tenancy Act, 1939 (Act No. XVII of 1939), U.P. Agricultural Income Tax Act and U.P. Kshettra Panchayat and Zila Panchayat Adhiniyam, and submitted that in all the aforesaid Acts, the word "Collector" has been defined and it includes Additional Collector. He, therefore, submits that the Additional Collector can exercise powers and functions of the Collector under Section 198 (4) of 1950 Act. He further submitted that the Division Bench judgment in the case of Shiv Avtar Vs. Nabi & others (Supra), did not notice the earlier Division Bench judgment of this Court in the case of Brij Kishore & others Vs. Atrikta Ziladhikari & others, (Supra), which squarely covers the field, nor noticed Section 14-A of 1901 Act and, therefore, it is per incuriam. Shri Some Narain Mishra, learned counsel appearing in Civil Misc. Writ Petition No.9097 of 2001 while adopting the submissions made by Shri R.B. Singhal, drew our attention to the provisions contained in Section 198 (9) (b) and submitted that it presupposes that there may be any other authority apart from the Collector.

On the other hand, Shri S.K. Chaturvedi, learned counsel appearing in Writ Petition No.30647 of 1996, argued that the Collector does not include Additional Collector as per definition of Collector given in 1950 Act, which provides that the Collector means an officer appointed as Collector under the provisions of 1901 Act and includes Assistant Collector of Ist Class empowered by the State Government by notification in the Gazette to discharge all or any of the functions of a Collector under the Act. Since the word "Collector" has been defined under Section 14 of 1901 Act, whereas "Additional Collector" has been distinctively defined in Section 14-A of the aforesaid Act, therefore, he cannot be equated with the Collector mentioned in Section 14. He further submitted that the judgment of the Division Bench in the case of Shiv Avtar Vs. Nabi & others (Supra), is the correct law. Similar argument was advanced by Sri Sanjay Goswami, learned Standing Counsel. They have also filed written submissions, which are on record.

We have considered the rival submissions made by them.

The moot point or the controversy, which is to be resolved and answered centres round as to whether the Collector, as defined under 1950 Act, includes Additional Collector or not when he exercises powers or discharges duties of a Collector under 1950 Act. To appreciate and to answer the questions referred to, it is necessary to examine carefully the relevant provisions of the 1901 Act and 1950 Act to give effect to the legislative intent.

1901 Act was enacted to consolidate and amend the law relating to land revenue and the jurisdiction of revenue officers in the State of U.P. Initially the Act was applicable to 'North Western Provinces' only which was substituted by U.P. Act No.2 of 1932 to the words 'Agra Province and Awadh' and by U.P. Act No.11 of 1941, the said words were substituted by 'Uttar Pradesh' whereas 1950 Act was enacted to abolish Zamindari system which involved intermediaries between the tiller of the soil and the State and for acquisition of their rights, titles and interest. The purpose and object of the Act was to reform the law relating to land tenure after abolition and acquisition of Zamindari system and also to make provision for other matters connected therewith. The words 'Revenue Court' and 'Revenue Officers' have been defined under Section 4 (8) and 4(9) of 1901 Act, which read as under: -

"(8) 'Revenue Court' means all or any of the following authorities (that is to say), the Board and all members thereof Commissioners, Additional Commissioners, Collectors, Additional Collectors, Assistant Collectors, Settlement Officers, Assistant Settlement Officers, Record Officers, Assistant Record Officers and Tahasildars;

(9) 'Revenue Officers' means any officer employed under this Act, in maintaining revenue records, or in the business of the land revenue;" (emphasis added)

It may be noted here that the word "Additional Collector" was inserted in Sub-section 8 of Section 4 by U.P. Act No. 2 of 1932. The Assistant Collectors are appointed under Section 15 of 1901 Act. It would be useful to have a look of it which reads as under: -

"15. Assistant Collectors.-(1) The State Government may appoint to each district as many other persons as it thinks fit to be Assistant Collector of the first or second class.

(2) All such Assistant Collectors, and all other Revenue Officers in the district, shall be subordinate to the Collector."

Since, the appointment of Collectors, Additional Collectors and Assistant Collectors are in respect to a District, it may be noted here that a 'District' is created under Section 11 of 1901 Act by the State Government and normally it is known as a 'Revenue District'.

Section 11 of 1901 Act reads as under: -

"11. Power to create, alter and abolish divisions, district, tahsils and sub-divisions.-(1) The State Government may create new or abolish existing divisions or districts.

(2) The State Government may alter the limit of any division, district or tahsil and may create new or abolish existing tahsil, and may divide any districts into sub-divisions and may alter the limits of sub-divisions.

(3) Subject to the orders of the State Government under sub-section (2) all tahsils shall be deemed to be sub-divisions of districts."

Section 14 of 1901 Act enables the State Government to appoint officers in each district, who shall be the Collector of the district and shall exercise all the powers and discharge all the duties throughout his district imposed on a Collector by 1901 Act or any other law for the time being in force. The provision contained in Section 14 reads as under: -

"14. Collector of the district.- The State Government shall appoint in each district an officer who shall be the Collector of the district, and who shall throughout his district, exercise all the powers and discharge all the duties conferred and imposed on a Collector by this Act or any other law for the time being in force."

There is no other provision in any Act except the above provision under Section 14 of 1901 Act empowering the State Government to appoint Collector of the district. However, by the passage of time the work load of the Collector was increased and, therefore, to cater the volumes of work it was felt necessary to provide additional hand to the Collector. With this end and object, the post of Additional Collector was created. Consequently, Section 14-A was inserted by U.P. Act No.3 of 1920, whereby the State Government was authorized to appoint Additional Collectors in a district or in two or more districts combined who shall exercise such powers and discharge such duties of Collector in such cases or class of cases as the Collector concerned may direct. Section 14-A runs as under: -

"14-A. Appointment, powers and duties of Additional Collectors.- (1)The State Government may appoint an Additional Collector in a district or in two or more districts combined.

(2) An Additional Collector shall hold his office during the pleasure of the State Government.

(3) An Additional Collector shall exercise such powers and discharge such duties of a Collector in such cases or classes of cases as the Collector concerned may direct.

(4) This Act and every other law for the time being applicable to a Collector shall apply to every Additional Collector, when exercising any powers or discharging any duties under sub-section (3), as if he were the Collector of the district."

It is the above provision under which the Additional Collector is appointed by the State Government. Sub-sections (3) and (4) of Section 14-A in the present form were enacted by U.P. Act No. 21 of 1962. Under sub-section (3) of Section 14-A, the Additional Collector exercises all such powers and discharges such duties of Collector in such cases or class of cases as the Collector concerned directs. Sub-section (4) of Section 14-A further provides that the Additional Collector while exercising power and discharging duties under sub-section (3) under this Act, i.e., 1901 Act and under any other law for the time being applicable to the Collector, acts as a Collector of the district. In other words, the Additional Collector exercises powers and discharges duties under sub-section (3) of Section 14-A as Collector of the district. Therefore, by legal fiction the order passed and the jurisdiction exercised by the Additional Collector by virtue of sub-section (3) of Section 14-A would be deemed to be that of a Collector of the district because of sub-

section (4) of Section 14-A of 1901 Act. Thus, the Additional Collector when acts and discharges duties and functions or exercises such powers of a Collector either under 1901 Act or under any other Act for the time being in force, that would be deemed to have been exercised by him as Collector of the district under that Act. Thus, the Additional Collector has all the powers of a Collector under sub-section (4) of Section 14-A when he exercises power under sub-section (3) of Section 14-A.

Now coming to relevant provision of 1950 Act under which the order of cancellation of lease impugned in the writ petition was passed. Section 198 (4) of 1950 Act confers power upon a Collector to Cancel allotment of lease, if he is satisfied that the allotment is irregular which reads as under: -

"(4) The Collector may of his own motion and shall on the application of any person aggrieved by an allotment of land inquire in the manner prescribed into such allotment and if he is satisfied that the allotment is irregular, he may cancel the allotment and the lease, if any."

The word 'Collector' is defined in Sub-section (4) of Section 3 of 1950 Act, which reads as under: -

"(4) 'Collector' means an officer appointed as Collector under the provisions of the U.P. Land Revenue Act, 1901, and includes an Assistant Collector of the first class empowered by the State Government by a notification in the Gazette to discharge all or any of the functions of a Collector under this Act."

The aforesaid sub Section (4) was inserted in 1950 Act by Section 3 of the U.P. Act No.34 of 1974, from a perusal whereof it is evident that the 'Collector' for the purposes of 1950 Act is an officer appointed as 'Collector' under 1901 Act and also includes the 'Assistant Collector' of the first class empowered by the State Government by notification in the Gazette to discharge all or any of the functions of a 'Collector' under 1950 Act. Thus, the Act by itself does not confine the term 'Collector' only to those officers, who are appointed under sub Section 14 of 1901 Act, rather it expands the definition of 'Collector' as an officer appointed as 'Collector', under 1901 Act. It does not confine the word 'Collector' for the purposes of 1950 Act to an officer appointed under Section 14 of 1901 Act but it would also include a person appointed under Section 14-A as well by virtue of declaration made under sub Section (4) thereof. If we read sub Section (4) of Section 3 of 1950 Act together with sub Section (4) of Section 14-A the expression 'Collector' used in 1950 Act shall have and shall be deemed always to be the 'Collector' appointed under Section 14 of the Act and will include 'Additional Collector' appointed under Section 14-A when it exercises power and discharges duty of a 'Collector' under sub Section (3) of Section 14-A because of sub Section (4) of Section 14-A, which provides that the Additional Collector while discharging the powers and duties of a 'Collector' under 1901 Act or under any other law, for the time being applicable to the Collector, as if he were the Collector of the district. Therefore, there is no intention of the legislature to confine the term 'Collector' for the purpose of 1950 Act to an officer appointed under Section 14 of 1901 Act, but it would also include a person appointed under Section 14-A as well by virtue of the declaration made under Sub-section 4 thereof.

It further appears from the composition of Section 14, 14-A and 15 of 1901 Act that

Collector can be appointed in each District while an Additional Collector may be appointed for a District or for two or more Districts combined. Further, though an Assistant Collector has been declared to be a subordinate to the Collector but an Additional Collector has not been declared to be subordinate to the Collector under Section 14-A of 1901 Act though the 'Additional Collector' is required to discharge such powers and duties of a Collector as directed by the Collector. Therefore, the position of Additional Collector is like an additional hand provided for aid and assistance to the Collector to discharge his duties in the District but the statute as such, does not make him a subordinate to the Collector when he exercises powers of Collector as assigned to him and is treated to be Collector of the District. Therefore, for all purposes he is an authority at par in hierarchy with the Collector when exercising his powers and duties as assigned by the Collector. However, the administrative power is with the Collector to determine as to what powers and duties are to be assigned to 'Additional Collector' which have to be exercised by the Collector and none else. If the definition of 'Collector' given under Section 3(4) of 1950 Act is construed by confining it only to an officer appointed under Section 14, it would amount to adding something in 1950 Act, i.e., a person appointed as Collector of the District under Section 14 of 1901 Act though there is no reason or rational for reading such words in Section 3(4) of 1950 Act, particularly when legislature has not intended so. The legislature while enacting sub section (4) of Section 3 of 1950 Act was fully conscious of Section 14-A of 1901 Act. Thus, the legislature clearly intended to include an officer appointed as 'Additional Collector' under 1901 Act within the meaning of Collector under 1950 Act.

From the provisions of the two Acts, referred to above, it is evident that the power under Section 198 (4) of 1950 Act can be exercised by a 'Collector' appointed under 1901 Act. From a plain reading one may refer to only Section 14 of 1901 Act but that would amount to ignore the legislature's intention and not to give effect to the legislative declaration under sub Section (4) of Section 14-A of 1950 Act. To ascertain and to give full meaning, as per legislative intent, one has to read sub Section (4) of Section 3 of 1950 Act together with Section 14 and Section 14-A of 1901 Act. It is true that in finding out the meaning of the word 'Collector' used in the Act, the ordinary meaning given in the definition clause is to be construed, but it is not inflexible and there may be sections in the Act where the meaning have to be departed from on account of the subject or context in which the word had been used. That is why, the definition clause starts with the sentence that unless there is anything repugnant in the subject or context 'Collector' means an officer appointed as 'Collector' under the provisions of 1901 Act. Therefore, because of this qualification, while giving correct meaning of definition of the word 'Collector' used in the Act, one has not only to look at the word but also to the context, the collocation and the object of such words relating to such matter and thereafter to interpret the meaning intended to be conveyed by the use of the words under the circumstances.

One of the important and basic principles of interpretation or construction of a statutory provision is to find out the intention of the legislature from the words, context and the subject matter. The function of the Court is only to expound and not to legislate and where more than one interpretation of statutory provision is possible, one, which represents the legislative intent, is to be preferred and given effect to. In the case of *The Member Secretary, Andhra Pradesh State Board for Prevention and Control of Water Pollution v. A.P. Rayons Ltd. and others*, AIR 1989 SC 611 the Bench comprising of three

Hon'ble Judges in para 11 observed as under: -

"11. This Court in *Lt. Col. Prithi Pal Singh Bedi v. Union of India*, (1983 1 SCR 393 at p. 404 : (AIR 1982 SC 1413 at p. 1419) of the report reiterated that the dominant purpose in construing a statute is to ascertain the intention of the Parliament. One of the well recognised canons of construction is that the legislature speaks its mind by use of correct expression and unless there is any ambiguity in the language of the provision the Court should adopt literal construction if it does not lead to an absurdity. Therefore, the first question to be posed is whether there is any ambiguity in the language used. If there is none, it would mean the language used, speaks the mind of Parliament and there is no need to look somewhere else to discover the intention or meaning. If the literal construction leads to an absurdity, external aids to construction can be resorted to. To ascertain the literal meaning it is equally necessary first to ascertain the juxtaposition in which the rule is placed, the purpose for which it is enacted and the object which it is required to subserve and the authority by which the rule is framed."

The Hon'ble Apex Court in the case of *The Vanguard Fire and General Insurance Co. Ltd. Madras Vs. M/s. Fraser and Ross and another* (AIR 1960 SC 971 p 974, 975) while considering the definition of the word "insurer" in Section 2(9) of Insurance Act No. 4 of 1938, observed that in finding out the meaning of the word "insurer" in various sections of the Act, the meaning to be ordinarily given to it is that as given in the definition clause. However, this is not inflexible and there may be Sections in the Act where the meaning may have to be departed from on account of the subject or context in which the word has been used and, therefore, the court has not only to look at the words but also to look at the context. In para-6 of the judgment their Lordships observed as under:

"It is well settled that all Statutory definitions or abbreviations must be read subject to the qualification variously expressed in the definition clauses which created them and it may be that even where the definition is exhaustive inasmuch as the word defined is said to mean a certain thing, it is possible for the word to have a somewhat different meaning in different sections of the Act depending upon the subject or the context. That is why all definitions in statutes generally begin with the qualifying words similar to the words used in the present case, namely, unless there is anything repugnant in the subject or context."

Therefore, if we read sub-section 4 of Section 3 of Act No.1 of 1952 along with Sections 14 and 14-A of 1901 Act, there would be inevitable conclusion that the 'Collector' referred or defined in sub Section (4) of Section 3 includes 'Additional Collector' when he discharges the functions and duties of Collector as provided under sub-section (3) of Section 14-A of 1901 Act or under any other law for the time being applicable to a Collector.

It is well recognized that in selecting out different interpretations the Court will adopt that one, which is just, reasonable and sensible rather than that which is none of those things. (See *Nasiruddin v. STA Tribunal*, AIR 1976 SC 331 p 338). Therefore, where one view appears to be absurd and the other is more reasonable and practicable, the other one has to be adopted for construing the provision. However, in the case in hand, we are of the view that the language or the wording employed is clear and does not suffer from any ambiguity and the legislature's intention is very much clear. The declaration made by

the legislature in sub Section 4 of Section 14-A cannot be ignored and has to be read with section 14, which defines 'Collector'. Therefore, non-reading of Section 14-A of 1901 would amount to ignore the legislative declaration under sub Section (4), which is applicable not only to 1901 Act but to all other laws, for the time being in force, applicable to the 'Collector'. Therefore, to construe the word 'Collector' of the District as defined under Section 3 (4) of 1950 Act if the other provisions of the Act are not read simultaneously, the very legislative intent of enacting Section 14-A would be defeated. Therefore, the 'Additional Collector' whenever exercises powers or discharges duties of the Collector as per instruction of the Collector under sub-section (3) of 1901 Act, he acts as Collector under the Act.

The golden rule of interpretation is that the natural and ordinary meaning of words should not be departed unless it appears that the legal context in which the words are used require a different meaning and, therefore, the ordinary meaning is to be given to the words used in a statute. In the case of *Bharat Singh v. Management of New Delhi Tuberculosis Centre, New Delhi and others*, AIR 1986 SC 842 the Hon'ble Apex Court in para 11 observed that where the words of a statute are plain and unambiguous effect must be given to them. Plain words have to be accepted as such but where the intention of the legislature is not clear from the words or where two constructions are possible, it is the Court's duty to discern the intention in the context of the background in which a particular Section is enacted.

The Halsbury's Laws of England Fourth Edition Reissue at page 851 para 1392, provides as under:

"Commonsense construction rule. It is a rule of the common law, which may be referred to as the commonsense construction rule, that when considering, in relation to the facts of the instant case, which of the opposing constructions of the enactment would give effect to the legislative intention, the court should presume that the legislator intended common sense to be used in construing the enactment."

Therefore, the Court while interpreting the Act, if finds that literal meaning given in the statutes would lead to anomaly or absurdity, the principle of literal interpretation need not to be followed and recourse of principle of purposive and meaningful interpretation is to be adopted to avoid injustice, absurdity and contradiction so that the very intent or the purpose of legislation is given effect to.

Justice G.P. Singh in his book *Principles of Statutory Interpretation* has quoted the speech of Lord Simon of Glaisdale as under: -

"Parliament is prima facie to be credited with meaning what is said in an Act of Parliament. The drafting of statutes, so important to a people who hope to live under the rule of law, will never be satisfactory unless courts seek whenever possible to apply 'the golden rule' of construction, that is to read the statutory language, grammatically and terminologically, in the ordinary and primary sense which it bears in its context, without omission or addition. Of course, Parliament is to be credited with good sense; so that when such an approach produces injustice, absurdity, contradiction or stultification of statutory objective the language may be modified sufficiently to avoid such disadvantage, though no further."

The Hon'ble Supreme Court of India, in the recent past, in several cases has accepted the doctrine of purposive construction for interpreting the statute. (See *Maruti Udyog Ltd. v. Ram Lal and others*, 2005 (2) SCC 638; *Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd. and others* 424, *Bombay Dyeing & Manufacturing Co. Ltd. Vs. Bombay Environmental Action Group & others*, AIR 2006 SC 1489, reported in AIR 2006, SC 1498 and *Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. and another*, (2007) 6 SCC 528), and while considering the interpretation of Section 357 of the Cr.P.C. viz-a-viz the provisions of Negotiable Instrument Act applied the doctrine of purposive interpretation.

In the case of *National Insurance Co. Ltd. v. Laxmi Narain Dhut*, (2007) 3 SCC 700 in para 35, the Hon'ble Apex Court has opined that more often than not, literal interpretation of a statute or a provision of a statute results in absurdity and, therefore, while interpreting statutory provisions, the courts should keep in mind the object or purpose for which the statute has been enacted.

Therefore, while construing the word 'Collector' as defined in 1950 Act, it is relevant and necessary to read the other provisions and statutes which are part of the same scheme, harmoniously and collectively so that the object and purpose of the enactment and the intent of the legislature are construed correctly. The declaration under Sub-section 4 of Section 14-A provides that every Additional Collector appointed under 1901 Act is a 'Collector' of the District in respect to such powers and duties which he exercises in the District as assigned to him by the concerned Collector and for that purpose it shall be deemed as if he is the Collector of the District. Once a declaration has been made in the statute itself, the same would carry to 1950 Act also inasmuch as in respect to such matters 'Additional Collector' would be the 'Collector' of the District. The reason for adding the requirement of issuance of a notification by the State Government empowering 'Assistant Collector of first class' would be clear from a bare reading of Section 15 of 1901 Act, which shows that though an Assistant Collector is also appointed in the District and he is a subordinate officer to the Collector, but there is no declaration like Sub-section 4 of Section 14-A in Section 15 that the Assistant Collector would also be treated to be a Collector of the District when he will be discharging duties assigned to him by the Collector or any other authority competent to do so in respect to the said District. Sub-section 4 of Section 3 of 1951 Act provides that only those Assistant Collector of first class are included within the meaning of Collector who are empowered by the State Government by Notification in the Gazette to discharge all or any of the functions of the Collector under the aforesaid Act. Thus, the issuance of notification by the State Government was necessitated because of absence of any provision like sub-section (4) of section 14-A of 1901 Act where under the order passed by an Additional Collector while exercising power or discharging any duty as a Collector would be deemed to be an order under that Act. Therefore, the Legislature while defining the Collector under sub-section (4) of Section 3 of 1950 Act provides that the Collector means an officer appointed as Collector under the provisions of 1901 Act and by legal fiction in view of sub-section (4) of Section 14-A of the U.P.Land Revenue Act, it would include Additional Collector also when he acts and discharges the duties of the Collector as authorised under sub-section (3) of Section 14-A. We are, therefore, of the view that as per definition given in sub-section (4) of Section 3 of Act No. 1 of 1950, Collector will

include Additional Collector also when he discharges the duties and functions of the Collector as provided under sub section (3) of Section 14-A of 1901 Act. In view of the discussions made above, answer of question no.1 can only be in affirmative, i.e., the power and functions of the Collector can be exercised by the Additional Collector under section 198(4) of 1950 Act, provided he has been so directed by the Collector of the district.

In support of our above view, it would be relevant to refer a Single Judge judgment rendered by His Lordship Hon'ble V. Bhargava (as His Lordship then was) in Baikuntha Narain Major and others Vs. Surend and others, 1954 ALJ 602 where referring to Section 14-A (4) of 1901 Act and applying the same in a similar kind of controversy occurred with reference to Section 2 of U.P. Land Utilization Act, 1948, his Lordship held as under: - "This means that the Legislature by this fiction intended that an Additional Collector, once he is empowered under sub-sec. (3) of Sec. 14-A of the U.P. Land Revenue Act, should have the status of and should be treated as if he were "the Collector" of the district for purposes of the U.P. Land Revenue Act as well as for purposes of every other law for the time being applicable to a Collector."

Section 14-A(4) of 1901 Act was again considered in Ratan Raj Vs. R.A.Rahmani, Election Tribunal, Meerut & others, 1960 RD 149, and the Division Bench of this Court following the judgement in Baikuntha Narain Major and others v. Surend and others (supra) observed as under:

"Sub section (4) of Section 14-A provides that the Additional Collector when exercising any power of discharging any duty under sub-section (3), would be deemed " as if he were the Collector of the District." The Election Tribunal has overlooked these words which enact the legal fiction that the Additional Collector should be deemed to be the Collector of the District. The legislature has by these words endowed him with the 'personae' of the Collector so that Sri Gauri Shanker Singh, though in fact the Additional Collector, would in law be deemed to have acted as the Collector of the District while receiving the petitioner's election petition. The Tribunal's opinion that the election was not validly presented to him is therefore patently wrong."

We are in respectful agreement with the aforesaid view expressed by their Lordships in the above cases, which also finds support from the judgment of the Hon'ble Apex Court in the case of State of U.P. & others Vs. Raja Syed Mohammad Sadat Ali Khan, AIR 1960 SC 1283. In that case validity of order of assessment passed by the Additional Collector under the Act of 1949 was questioned on the ground that the Additional Collector had no authority to assess the agricultural income under the provisions of U.P. Agricultural Income Tax Act, 1949 (in short the Act of 1949). Validity of this order was challenged by the assessee in a proceeding under Article 226 of the Constitution before the Allahabad High Court on the ground that the Additional Collector, Bahraich was not the authority competent by law to assess the agricultural income tax under the Act of 1949. The Allahabad High Court quashed the impugned order of the Additional Collector. The State of U.P. went in appeal before the Apex Court and their Lordships having noticed the provisions contained in Section 14-A of 1901 Act and the amendment in Section 2 of 1949 Act, whereunder it was provided that the expression 'Collector' shall have and shall be

deemed always to have the meaning as in the U.P. Land Revenue Act, 1901, held that the Additional Collector was competent to assess the liability of the assessee to pay Agricultural Income Tax and Super Tax under 1949 Act.

Now coming to question no.2 referred to us. In *Brij Kishore (Supra)*, the Division Bench while considering as to whether Additional Collector can exercise power of Collector under Sections 14 and 15-A of U.P. Bhoodan Yagna Act, 1952 (in short '1952 Act'), held that an Additional Collector exercising power required to be exercised by a Collector under Section 15-A would be acting in his jurisdiction since an Additional Collector would be a Collector for the purpose of Section 15-A of 1952 Act. It may be noticed here that in 1952 Act, the word 'Collector' itself has not been defined and instead Section 2 (f) provides that the words and expressions not defined in 1952 Act shall have the meaning assigned to them in respect to the area covered by 1950 Act as defined therein. Section 15-A of 1952 Act confers power upon the Collector to pass appropriate orders including cancellation thereof where he is satisfied that the grant was irregular or was obtained by misrepresentation or fraud. For ready reference Section 15-A of 1952 Act is reproduced as under :

"15-A. Cancellation of certain grants.-(1) The Collector may of his own motion and shall on the report of the committee or on the application of any person aggrieved by the grant of any land made under Section 14, whether before or after the commencement of the Uttar Pradesh Bhoodan Yagna (Amendment) Act, 1975, inquire into such grant, and if he is satisfied that the grant was irregular or was obtained by the grantee by misrepresentation or fraud, he may-

(i) cancel the grant, and on such cancellation, notwithstanding anything contained in Section 14 or in any other law for the time being in force, the rights, title and interest of the grantee or any person claiming through him in such land shall cease, and the land shall revert to the committee; and

(ii) direct delivery of possession of such land to the committee after ejectment of every person holding or retaining possession thereof, and may for that purpose use or cause to be used such force as may be necessary.

(2) Notice of every proceeding under sub-section (1) shall be given to the committee, and any representation made by the committee in relation thereto shall be taken into consideration by the Collector.

(3) No order shall be passed under sub-section (1) except after giving an opportunity of being heard to the grantee or any person known to the Collector to be claiming under him.

(4) The order of the Collector passed under sub-section (1) shall be final and conclusive."

The contention raised was that under Section 15-A of 1952 Act, the Collector has only been empowered to cancel the grant of any land made under Section 14 of 1952 Act if it is found to have been obtained by misrepresentation or fraud. It was further contended in that matter that the Collector appointed under Section 14 of 1901 Act is a distinct and separate authority to that of the Additional Collector appointed under Section 14-A of 1901 Act and thus, in view of Section 15-A of 1952 Act, the Additional Collector is not

vested with the power to cancel the grant. Their Lordships repelled the contention and held as under: -

"We find no merit in aforementioned submission made by the learned counsel for the petitioners. Sub-section (3) of Section 14-A of the U.P. Land Revenue Act empowers an Additional Collector to exercise such powers and discharge such duties of a Collector in such cases or class of cases as the Collector concerned may direct. Sub section (4) then lays down that the U.P. Land Revenue Act and every other law for the time being applicable to a Collector shall apply to every Additional Collector, when exercising any powers or discharging any duties under Sub section (3), as if he were the Collector of the district. This provision makes it absolutely clear that in cases, whether they pertain to U.P. Land Revenue Act or to any other law, assigned by the Collector to an Additional Collector, the Additional Collector is fully entitled to perform the functions of the Collector. Accordingly in cases assigned to him by the Collector, the Additional Collector is fully competent to exercise the functions of a Collector under Section 15-A of the U.P. Bhoodan Yagna Act and it cannot be said that the Additional Collector lacked jurisdiction to pass an order cancelling the grant made in favour of the petitioners on the ground that he was not the Collector of the districts."

We, having taken note of the provisions contained in 1901 Act and 1950 Act and in view of the discussions made earlier, endorse the similar view. Therefore, in Brij Kishore (supra) it has rightly been held that by virtue of Sub-section 4 of Section 14-A of 1901 Act the Additional Collector when exercises power of Collector as directed by the Collector, is Collector of the District for the purpose of all such Acts where the power is to be exercised by the Collector whereas in Shiv Autar (Supra) the Division Bench with respect, while considering the validity of an order passed by the Additional Collector under Section 198 (4) of 1950 Act, has only considered the provisions contained in sub Section 3 of Section 14-A of 1901 Act and it appears that their Lordships attention was not drawn to sub Section (4) and, therefore, their Lordships proceeded as there was no order that the Additional Collector, Deoria was directed to exercise power. However, their Lordships, with respect, did not consider the effect of sub Section (4) of Section 14-A and, therefore, there is no discussion with respect to sub Section (4) of Section 14-A while interpreting the expression 'Collector' in the aforesaid case nor their Lordship's attention was drawn to the earlier judgment in the case of Brij Kishore (supra) and thus, with respect, in our view, the judgment in the case of Shiv Avtar (supra) is per incurium and does not lay down the correct law and therefore, the law laid down in the case of Brij Kishore & others Vs. Atrikta Zila Adhkari & others (Supra) is the correct law.

Our opinion, therefore, in respect of question no.1 is that the Additional Collector can exercise power of Collector under Section 198 (4) of U.P. Zamindari Abolition and Land Reforms Act, 1950. We, therefore, answer question no.1 in affirmative.

So far as question no.2 is concerned, our answer, in view of discussions made above, is that the judgment in Shiv Autar Vs. Nabi & others (Supra) does not lay down the correct law and the judgment in Brij Kishore (supra) lays down correct law. We answer both the questions accordingly.

Let all the writ petitions be placed before the Hon'ble Single Judge with our answers to

the questions referred to us for passing appropriate orders.

Dated: 29.4.2008

SKM