

Satdeo Pandey vs Baba Raghav Das on 15 September, 1952

Equivalent citations: AIR1953ALL419, AIR 1953 ALLAHABAD 419

Author: Raghubar Dayal

Bench: Raghubar Dayal

JUDGMENT

Dayal, J.

1. A preliminary objection was taken at the hearing of this petition to the effect that this Court had no jurisdiction to take proceedings for contempt of the Court of the Assistant Collector, first class, with respect to proceedings pending before it for the correction of papers under Section 40, Land Revenue Act (Act 3 of 1901).

2. Section 2, Sub-section (1), Contempt of Courts Act (12 of 1926) is:

"Subject to the provisions of Sub-section (3) the High Courts of Judicature established by Letters Patent shall have and exercise the same jurisdiction, powers and authority in accordance with the same procedure and practice, in respect of contempt of Courts subordinate to them as they have and exercise in respect of contempts of themselves."

The contention for the opposite party is that the Court of an Assistant Collector, first class, under the Land Revenue Act is not subordinate to the High Court and that, therefore, this Court cannot take action with respect to contempts committed of that Court.

3. It is submitted for the petitioner that the Court of the Assistant Collector, first class, under the Land Revenue Act, is subordinate to this Court on account of this Court having appellate jurisdiction over it. Support for this is sought in two ways. Firstly, it is argued that appeals against decrees passed by such Court under Section 111, Sub-section (3), Land Revenue Act, are appealable to the District Judge or the High Court under the rules applicable to appeals to those Courts and that, therefore, in view of this appellate jurisdiction this Court will be deemed to exercise superintendence over that Court in all matters, irrespective of the fact whether orders passed in those matters would be appealable to or revisable by this Court or not. Secondly, it is argued that under para 11 of the Letters Patent of the Allahabad High Court this Court is a Court of appeal from all civil Courts within its jurisdiction.

4. It is clear that if this Court has no appellate jurisdiction over the Court of the Assistant Collector, first class, under the Land Revenue Act, that Court cannot be said to be subordinate to this Court.

5. The provisions of the Land Revenue Act make it clear that the Court of the Assistant Collector, first class, is subordinate to the higher revenue Courts provided in that Act.

6. There is no dispute about it. All orders of the Assistant Collector, first class, are appealable to the Collector under Section 210, Sub-section (1), Clause (a). Under Section 218 the Commissioner can examine the record of any case decided or proceeding held by an officer subordinate to him and can refer the case, with his opinion, for the orders of the Board if the case is of a judicial nature or connected with settlement, or for the orders of the Local Government if the case is of a non-judicial nature or not connected with settlement. Under Section 219 the Board itself can call for the record of any case of a judicial nature or connected with settlement and pass necessary orders in certain circumstances.. Section 191 of the Act empowers the Board or the Commissioner to transfer any judicial case, including partition cases, from any subordinate revenue Court or revenue officer to any other such Court or officer competent to deal therewith. It shows that a revenue Court trying partition cases is subordinate to the Commissioner and the Board. Section 5 of the Act provides that the control of all judicial matters and of all matters connected with settlement under the Act is vested in the Board.

7. It is, therefore, clear that the Board controls the proceedings connected with judicial matters in the Courts of the Commissioner, the Collector and Assistant Collectors, and that the Board is the final appellate or revisional authority in connection with the judicial orders of these Courts. The Court of the Assistant Collector, first class, must, therefore, be held subordinate to the Courts of the Collector, the Commissioner and the Board. The question then is whether the Court of the Assistant Collector, first class, under the Land Revenue Act, can also be said to be subordinate to the High Court for the purposes of proceedings under the Contempt of Courts Act. It cannot be said to be subordinate to the High Court when it is considered that the High Court has no power or control over it. A Court is subordinate to another Court when its proceedings can be controlled by the other by way of appeal or revision. When proceedings cannot be so controlled, it is difficult to imagine how that Court can be subordinate to another Court, however superior the status of that Court may be.

8. I shall now proceed to examine the first contention for the petitioner.

9. I may quote here the three relevant sections, Sections 111, 112 and 112A, Land Revenue Act.

"Section 111.--(1) If, on or before the day so fixed, any -objection is made by a recorded co-sharer, involving a question of proprietary title which has not been already determined by a Court of competent jurisdiction, the Collector may either:

(a) decline to grant the application until the question in dispute has been determined by a competent Court, or

(b) require any party to the case to institute within three months a suit in the civil Court for the determination of such question, or

(c) proceed to inquire into the merits of the objection.

(2) When the proceedings have been postponed under Clause (b), if such party fails to comply with the requisition, the Collector shall decide the question against him. If he institutes the suit the Collector shall deal with the case in accordance with the decision of the civil Court.

(3) If the Collector decides to inquire into the merits of the objection, he shall follow the procedure laid down in the Code of Civil Procedure for the trial of original suits."

"Section 112.-- All decrees passed under sub- Section (3) of the preceding section shall be held to be decrees of a Court of civil judicature of the first instance, and shall be open to appeal to the District Judge or the High Court as the case may be, under the rules applicable to appeals to those Courts."

"Section 112A.-- The appellate Court may issue a precept to the Collector directing him to stay the partition pending the decision of the appeal, whether the appeal is pending from a civil Court under Section 111 (1) (b) or from the Court of the Collector under Section 111 (3)."

10. It is admitted, and is clear from the provisions of the Land Revenue Act, that no other order of an Assistant Collector, first class, under the Land Revenue Act is appealable or revisable by the High Court, and that an appeal lies only against the decrees referred to in Section 112 of the Act. I am of opinion that this particular appellate power of the High Court? cannot vest the High Court with any such appellate jurisdiction as would give it the power of superintendence over that Court and make that Court subordinate to this Court, even if that Court can be said to be subordinate to this Court with respect to the matters in connection with which the decrees referred to in Section 112 of the Act were passed.

11. It may be noticed first that Section 112, Land Revenue Act, does not confer any appellate jurisdiction on this Court over the Court of the Assistant Collector first class. It just provides that decrees of that Court shall be held to be decrees of a Court of civil judicature of the first instance and shall be open to appeal to the District Judge or the High Court. It follows that in essence these decrees are not decrees of a Court of civil judicature. They are deemed to be decrees of a civil Court and it is in view of their being so deemed that an appeal is provided to the District Judge or the High Court, as the case may be. No appeal to the District Judge or the High Court is provided by this section against the decree of an Assistant Collector, first class, as a decree of a revenue Court. A revenue Court as such as not a civil Court. If it had been so, there would not have been any necessity for Section 112.

12. An Assistant Collector, first class, can deal with the question of proprietary title raised before him during partition proceedings in three ways. He can either decline to grant the application until the question in dispute has been determined by a competent Court, or require any party to institute within three months a suit in the civil Court for the determination of the question or proceed to inquire into the merits of the objection. It is only when the Assistant Collector proceeds to inquire into the merits of the objection that under Section 111 (3) he is required to follow the procedure laid down in the Code of Civil Procedure for the trial of original suits. There is no provision in the Land Revenue Act for appeals or revisions to the High Court against the orders of the Assistant Collector in the course of his inquiry into the merits of the objection. Such orders must of necessity be appealable or revisable by the higher revenue authorities which, therefore, must have control over these proceedings. It is only after the Assistant Collector pronounces his final decree & passes the decree that an appeal against that decree is allowed to the Dist. Judge or the High Court as the case may be. In the circumstances, the High Court or the District Judge would be mainly dealing with the question of proprietary title on merits and will not be concerned with the proceedings during the inquiry before the Assistant Collector. Such a limited power of interference with the decrees of the Assistant Collector, first class, cannot, in my opinion, be said to vest any general appellate jurisdiction in the High Court over the Court of the Assistant Collector, first class.

13. It is also to be noticed that even this limited power of appeal to the High Court comes into existence after the Assistant Collector decides to take action in a certain way. The Assistant Collector is free to change his mind and ultimately make orders as contemplated under Section 111, Sub-section (1), Clause (a) or (b). It looks to me odd that a Court should be free to make itself subordinate to another Court and that its subordination should not be definitely provided by enactment establishing that Court.

14. I am, therefore, of opinion that such a special appellate jurisdiction is a jurisdiction of a very limited character and is to be exercised within the defined limits. It is too much to say that due to such limited power over a particular kind of order of the Assistant Collector, first class, the High Court can exercise jurisdiction of any larger character and exercise superintendence over that Court which is specifically vested under section 5 of the Act in the Board of Revenue.

15. Section 224, Government of India Act, provides that every High Court shall have superintendence over all courts in India for the time being subject to its appellate jurisdiction, and that this power of superintendence shall not be construed as giving to the High Court any jurisdiction to question any judgment of any inferior Court which is not otherwise subject to appeal or revision. This makes it clear that the High Court cannot interfere with any judicial order of an inferior Court, unless there is special provision for appeal or revision against that order. It follows that the High Court cannot interfere with any order of the Assistant Collector, first class, except with an order passed by him under Section 111, Sub-s. (1), Clause (C). Power of superintendence implies control. I have already indicated that no control, is vested in this Court over judicial matters before the Assistant Collector, first class, such control being vested in the Board of Revenue. I am, therefore, of opinion that the provisions of section 224, Government of India Act, 1935, do not vest any power of superintendence in the High Court over the Court of the Assistant Collector, first class when it does not possess any general appellate jurisdiction over that Court. Even if it can be said

that, due to this particular limited appellate power, the High Court has appellate jurisdiction over the Court of the Assistant Collector, first class, I am of opinion that it would be a matter of grave doubt that in the presence of the provisions of Section 5, Land Revenue Act, this Court can be said to have the power of superintendence and consequently the power of control over the Court of the Assistant Collector, first class. It can be only in very exceptional cases, if ever, that two independent superior Courts should have superintendence and control over one Court. It is understandable that the two Courts may have control over the other Court with respect to different matters, but such would not be the case if it be held that the Court of the Assistant Collector, first class, is subordinate to the High Court because the High Court has power of superintendence over it in view of its exercising appellate jurisdiction which itself is to be inferred from such a limited power of appeal to the District Judge or the High Court against a particular order of that Court.

16. The second contention for the petitioner that under Clause 11 of the Letters Patent the High Court is constituted a Court of appeal from all civil Courts under its territorial jurisdiction, that the Court of the Assistant Collector is a civil Court ;and that, therefore, the High Court has appellate jurisdiction over the revenue Court of the Assistant Collector, first class, appears to me to be without force. In this connection reliance was placed on the Privy Council case reported in -- 'Nilmoni Singh v. Taranath Mukerji', 9 Cal. 295 (P. C.) (A) I need not discuss that case at present. Suffice it to say, that there has been a lot of change in law since that case was decided in 1382. In 1887 the Bengal, Agra and Assam Civil Courts Act (Act 12 of 1807) came into force. The Act is described to be an Act to consolidate and amend the law relating to civil Courts in Bengal, North-Western Provinces and Assam. It would appear, therefore, that the Courts which can be said to be civil Courts must come within the provision of this Act. Section 3 of the Act is:

"There shall be the following classes of civil Courts under this Act, namely, the Court of the District Judge, the Court of the Additional Judge the Court of the subordinate Judge and the Court of the Munsif".

It would follow, therefore, that the Court of an Assistant Collector, first class, is not a civil Court. I need not dilate on this matter, and would refer to the Full Bench case of -- 'H. C. D. Mathur v. E. I. Rly', AIR 1950 All 80 (B). The question before the Full Bench was whether an authority constituted under section 15, Payment of Wages Act, was or was not a 'Court' within the meaning of Section 115, Civil P. C. It was observed 'at page 81' column 2:

"So far as a Court of law, in the wider sense of the word, is concerned the tests laid down by the Acting Chief Justice in -- 'Works Manager, Carriage and Wagon Shops, Mogalpur v. K. G. Hashmat', AIR 1946 Lah, 316 (C) might well be applied, and it might be held that any person or body of persons, called upon to decide any question of right in accordance with judicial principles and a 'tribunal which exercises jurisdiction by reason of the sanction of the law' is a Court. It does not, however, follow from this that every such tribunal is a Court of civil jurisdiction, to which alone section 115, C. P. C. applies. There is a large variety of such tribunals, e. g., the revenue and rent Courts, the criminal Courts, commissioners for the trial of election petitions and special Courts, such as those of Special Judges under the U. P.

Encumbered Estates Act. It cannot be predicted of such Courts that they are subject to the powers vested in High Courts by reason of Section 115, C. P. C."

It would follow from the concluding portion of the above remarks that revenue and rent Courts are not subject to the powers vested in the High Court by reason of Section 115, C. P. C.

17. Further on it was observed:

"Thus while the law prevailing in the Agra province limits the civil Courts to the classes enumerated in the Bengal, Agra and Assam Civil Courts Act, the Oudh Act permits the creation of such Courts by other enactments".

Still further at page 82, column 2 it was observed:

"The Code of Civil Procedure regulates the procedure not only of civil Courts, but of other authorities as well Section 5, C. P. C., contemplates that it might be made applicable to revenue Courts also & it has in fact been made so applicable, with certain modifications, by the U. P. Tenancy Act, but for this reason the Courts constituted under that Act do not become civil Courts."

I may say here that the Land Revenue Act does not make the provisions of the Code of Civil Procedure applicable to the proceedings before the revenue Court. It provides a special procedure. It is only under Section 111 (3) that the Assistant Collector, first class, has to follow the procedure laid down in the Code of Civil Procedure for the trial of original suits when he is inquiring into the merits of an objection to proprietary title. The claim for such a revenue Court to be called a civil Court merely because the matters which come up for decision before it are of a civil nature will not be correct. It would appear that all cases which are not of a criminal nature are of a civil nature and that, so far as civil cases go, the High Court would become the appellate Court from all the tribunals deciding particular types of civil matters if this contention for the petitioner about the interpretation of Clause 11 of the Letters Patent be accepted. If such was the interpretation, similar would be the interpretation about the High Court being the appellate Court from all criminal Courts by virtue of Clause 11 of the Letters Patent. It would, then follow that all Courts, civil or criminal, would be under the appellate jurisdiction of the High Court and would consequently be subordinate to it. It would then be futile to have used the words "subordinate to them" in section 2 (1). Contempt of Courts Act, 1926. as the High Court could take action for contempt of all Courts which in the nature of things must either be civil or criminal.

18. I am, therefore, of opinion that the High Court exercises no appellate jurisdiction over the revenue Court by virtue of Clause 11 of its Letters Patent.

19. I have gone through the various cases referred to by the learned counsel for the petitioner during his arguments and I consider them not to apply to the present case fully. Reliance is mainly placed on the case,--'Balkrishna H. Phansalkar v. Emperor', A. I. R. 1933 Bom 1 (D) for the proposition that the High Court exercises appellate jurisdiction and consequently superintendence over a Court,

some of whose orders, if not all, are appealable to the High Court. This Bombay case related to a revision case by one who was convicted under the Emergency Powers Ordinance.

20. The Ordinance provided for the constitution of Courts of criminal jurisdiction, and also provided for an appeal to the Court of Sessions and to 'the High Court against orders of the Special Magistrate in certain cases. Orders passing a sentence of transportation or imprisonment for a term of less than a year or fine for a sum less than Rs. 2000/- were not appealable. Section 51 further provided in effect that notwithstanding other provisions of law, no Court would have authority to revise any order or sentence of Special Magistrate except as provided under the Ordinance.

21. it was contended that the High Court had no power of revision or superintendence over the Courts constituted by the Emergency Powers Ordinance and, therefore, could not entertain the revision application. Beaumont C. J. observed at page 4':

"Under Section 107, the High Court has superintendence over all Courts for the time being subject to its jurisdiction. It is not disputed that rights of superintendence include not only superintendence on administrative points but superintendence on the judicial side too, & that under its power of superintendence the High Court can correct any error in a judgment of a Court subject to its appellate jurisdiction. It seems to me clear that the Special Courts under the Ordinance are Courts subject to the appellate jurisdiction of the High Court, because under Section 39 the High Court has power to hear appeals in certain cases. It was suggested by the Advocate General that the Special Courts were not subject to the High Court's appellate jurisdiction because there was no right of appeal to the High Court in all cases. But, in my opinion, if there is a right of appeal in any case to the High Court, the Court from which an appeal is allowed is subject to the appellate jurisdiction of the High Court, which can then exercise the right of superintendence in respect of all matters, and not only those matters in. respect of which a right of appeal is given".

It was observed at page 4:

" I will assume for the moment that if the Ordinance had excluded all rights of appeal to the High Court, there would have been no right of superintendence under section 107, though I would observe in passing that the correctness of that proposition is not altogether free from doubt, and that there are many decisions of this Court which suggest that even if there be no right of appeal from Courts exercising a form of criminal jurisdiction in the Presidency, nevertheless this Court would, having regard to the relations between those Courts and the High Court have a power of superintendence".

Similarly Broomfield J. stated at page 6:

"There are authorities for holding that the power of superintendence may exist even where there is no appellate jurisdiction in the ordinary sense at all. But anyhow it has

been frequently held that a limited appellate jurisdiction is sufficient, and appellate jurisdiction is conferred on the High Court by Section 39 of the Ordinance itself".

22. This case is, therefore, no authority for holding that the power of hearing an appeal in a certain contingency only against an order of a Court makes that Court subject to the appellate jurisdiction of the High Court. It is to be noticed that appeals in cases in which a person was sentenced by a Special Magistrate appointed under the Ordinance, to more than four years' imprisonment, lay to the High Court. What the High Court has really held was that it was not necessary for a Court being subject to the appellate jurisdiction of the High Court that appeals against all orders passed by that Court should be appealable to the High Court. The case merely decided that if appeals lay in general against certain orders of a Court, that Court will become subject to the appellate jurisdiction and consequently to the superintendence of the High Court. It is to be noticed that appeals from orders of the Special Magistrate appointed under the Ordinance lay either to the Sessions Judge or to the High Court and did not lie to any other tribunal which was independent of the High Court. It is also to be noticed that Section 224, Government of India Act, 1935 limits the powers of superintendence on the judicial side, as I have indicated above and bars the High Court from interfering with the judicial order unless a definite appeal or revision is provided against that order.

23. Similarly in the case of -- 'Governor of Bengal in Council v. Tusharkanti', AIR 1933 Cal 118 (E) it was held that the Court of Commissioner appointed under the Bengal Criminal Law Amendment Act of 1925, is a Court subordinate to the High Court within the meaning of Section 2 (1), Contempt of Courts Act of 1926. Under this Act a person convicted on a trial held by the Commissioner under section 3 (1) of the Bengal Criminal Law Amendment (Supplementary) Act, 1925, could appeal to the High Court. No right of appeal was given to the Local Government against an order of acquittal. It was argued that as the local Government was not given a right of appeal against an order of acquittal, the Court of Commissioner was not subject to the appellate jurisdiction of the High Court: It was observed at page 120:

"The jurisdiction to hear appeals from Commissioners is nonetheless appellate jurisdiction, because the right of appeal from Commissioners is less extensive than the right of appeal from, the ordinary criminal Courts".

Reference was made to the aforesaid 'Bombay case' (D). This case again is no guide for the determination of the question before us. Appeals under that Act against the orders of the Commissioners lay to the High Court and to no other Court. The High Court, therefore, exercised appellate power over the Court of the Commissioner in general. Merely that certain orders were not appealable could not have deprived the High Court of its appellate jurisdiction, and as the Court of Commissioner in general was subject to the appellate jurisdiction of the High Court, it was a Court subordinate to the High Court.

24. In -- 'Advocate General v. Maung Chit Maung', AIR 1940 Rang 68 (F) it was held that a Magistrate holding an enquiry under section 176, Criminal P. C. was a Court. It was not disputed that if he was a Court, the High Court exercised superintendence over him and his Court was subordinate to the High Court. This case, therefore, does not throw any light on the question before

us.

25. No help is derived from the case reported In -- 'In re Mohandas Karamchand Gandhi', AIR 1920 Bom. 175 (G). It was merely observed at page 175 that the High Court should extend protection to the Courts in the Mufassil over which it exercises supervision. This is perfectly correct. The question before us is whether the High Court exercises any supervision over the Court of an Assistant Collector, First Class.

26. It may be mentioned here that before the enactment of the Contempt of Courts Act, Sulaiman, J. as he then was, was not prepared to hold that the High Court could punish for contempt of Court of inferior criminal courts and left this question open. He observed at p. 629 in the case in --'Re Hadi Husain v. Nasir Uddin Haider', AIR 1926 All 623 (H) "I prefer to leave the question of contempt of inferior criminal Courts still open, for that question does not arise in this case. Owing to their respective constitutions there is undoubtedly some difference between the criminal Courts and the civil Courts. The Criminal Courts are not directly under the High Court to the same extent as the civil Courts are and the High Court does not possess the same power of control over the officers of the criminal Courts. On the other hand the civil Courts are directly and exclusively under the superintendence and control of the High Court."

27. The control which the High Court exercises over the revenue Courts under the Land Revenue Act is, as shown above, practically none. Those Courts are under the control of the Board of Revenue.

28. Reliance was also placed for the petitioner on the case reported in -- 'Kartik Chandra v. Gora Chand', 40 Cal 518 (I). It was held in this case that the Court of Deputy Commissioner when acting in connection with an application for enhancement of rent under Section 27, Chota Nagpur Tenancy Act, was subject to the appellate jurisdiction of the High Court as the proceedings were judicial proceedings and a second appeal was allowed to the High Court under the provisions of Section 224 (2) of the Act in certain cases. Apart from any other consideration, this case can be distinguished on the ground that second appeal in certain cases lay to the High Court. If appeals in general in certain kind of cases lay to the High Court, it may be said that the other Court was subordinate to the High Court- Such appeals lay when those conditions were fulfilled and not only when the Court of the Collector happened to exercise a certain discretion and passed an order, which not as an order of the Collector but as a decree of a Civil Court, was made appealable to High Court under a special provision of the enactment. In -- 'Uma Charan v. Midnapore Zamindari Co.', AIR 1914 Cal 890 (J) it was held that the High Court had no jurisdiction to exercise the power of superintendence it possesses under Section 15, High Courts Act, 1861, in relation to a proceeding for settlement of fair rents before a Revenue Officer under Section 85, Chota Nagpur Tenancy Act, 1908. It was observed at p. 892:

"But where a Court is made subordinate to the appellate jurisdiction of a tribunal different from and in no way subordinate to this Court, it cannot reasonably be held that the Court is subordinate to the appellate jurisdiction of this High Court."

Referring to the various cases holding that the High Court had jurisdiction to interfere with the orders of the Collectors and the Deputy Collectors under Act 10 of 1859, which cases included the Privy Council case reported in 9 Cal 235 (A) it was observed:

"The provisions, it may be, pointed out, for appeals under Act 10 of 1859 are on entirely different lines from those prescribed in Chota Nagpur Tenancy Act, 1908."

The case reported in 40 Cal 518 (A) was also distinguished on the lines indicated by me above. It was further observed:

"It would, in our opinion, be anomalous to hold that where, by statute, superintendence over a revenue officer is vested, in a particular matter, in the Commissioner and the Board of Revenue, the Revenue Officer should be deemed, even for the purposes of that particular proceeding, a Court subordinate to the appellate jurisdiction of this High Court."

These remarks would fully apply in this present case, if it be held that the Court of an Assistant Collector, first class, is subordinate to the appellate jurisdiction of the High Court in matters in which appeals lay to the Commissioner and the Board of Revenue.

29. It was held by a Full Bench of the Oudh Chief Court in -- 'Gaya Prasad v. Kalap Nath', AIR 1929 Oudh 389(K), that a District Judge when exercising the appellate powers against the orders of the Assistant Collector under the Oudh Rent; Act was not subordinate to the Chief Court.

30. I may again refer to the Full Bench decision in AIR 1950 All 80(B). It is observed in this case at p. 84:

"A very great difference exists between the Workmen's Compensation Act and the Payment of Wages Act, inasmuch as the former Act provides for an appeal from certain orders of the Commissioner appointed under the Act to the High Court while the latter does not provide for any such appeal. Thus under the Workmen's Compensation Act, the Commissioner is a Court subordinate to the appellate jurisdiction of the High Court and can well be held to be a Court subordinate to the High Court for the purpose of Section 115, C. P. C."

Firstly, it does not amount to a decision of the Full Bench that the Court of the Commissioner under the Workmen's Compensation Act is a Court subordinate to the High Court. It simply means that the decision of the Patna High Court, in the circumstances, can be said to be correct with respect to the proposition that the Court of the Commissioner under the Workmen's Compensation Act, is subordinate to the High Court. It is to be noticed that under that Act whatever appeals are allowed, they are allowed to the District Judge or to the High Court. No appeal is allowed to any other Court which is independent of the High Court.

31. In -- 'Bishambhar Nath v. Achal Singh AIR 1932 All 651 (L), it was held that the Court or the District Magistrate while deciding an appeal under Section 318, Municipalities Act, was not subordinate to the High Court and accordingly no revision lay to the High Court, Iqbal Ahmad J. observed at p. 652 :

"It appears to me, however, that a Court can be said to be subordinate to another Court only if the latter Court has appellate or revisional jurisdiction or power of superintendence given to It by some statutory provision over the former Court and that the mere authority to decide a reference does not necessarily make the Court making a reference subordinate to the Court deciding the same. Further, as by Section 115 this Court is given revisional powers only with reference to cases decided by subordinate Courts, that section can only have reference to Courts over which this Court has a judicial and not a purely administrative power."

It was further observed at p. 652:

"The mere fact that under certain circumstances the District Magistrate is authorised to make references under the Municipalities Act to this Court, cannot, in my opinion, be a justification for holding that the District Magistrate is subordinate to this Court in matters coming under the Municipalities Act."

This case tends to support my view to the effect that the mere fact that an order under Section 111 (c), Land Revenue Act, by an Assistant Collector, first class, is under Section 112 of that Act deemed to be a decree of a civil Court and is made appealable to the District Judge or to the High Court as the case may be, does not justify holding that an Assistant Collector, first class, is subordinate to this Court in other matters coming under the Land Revenue Act.

32. I do not consider that the decision of the Judicial Committee in -- 'Emperor v. Shibnath Banerji', AIR (32) 1945 P. C. 156 (M), is of any help in determining the question before us. There a Home Minister was held to be an officer subordinate to the Governor within the meaning of Section 49(1), Government of India Act, 1935, because it was the Governor who was the appointing authority and had the power to distribute work between the ministers. No such consideration exists in considering the question of subordination of the "Court of an Assistant Collector, first class, under the Land Revenue Act to this Court.

33. I, therefore, find nothing in the case law to support the contention of the petitioner.

34. It appears to me wrong to infer the powers of this Court with respect to the contempts committed of Courts which are of lower status than the High Court by keeping in view the powers which the Court of King's Bench in England has for punishing the contempts of inferior Courts. It is under the common law that the King's Bench exercises the power to punish contempt of Courts inferior to it. No other superior Court in England, which is also a Court of record, exercises such powers merely on the ground that it is a superior Court and a Court of record. The Court of King's Bench appears to control all proceedings of the inferior Courts and it is in view of this consideration

that it exercises power of punishing contempt of those Courts.

35. The question about the power of King's Bench to punish contempt of inferior Courts was left open in -- 'Rex v. Parke', (1903) 2 K. B. 432 (N), even though Wills, J. remarked at p. 442:

"This Court, "the High Court", exercises a vigilant watch over the proceedings of inferior Courts, and successfully prevents them from usurping powers which they do not possess, or otherwise acting contrary to law. It would seem almost a natural corollary that it should possess correlative powers of guarding them against unlawful attacks and interferences with their independence on the part of others."

It was later held in -- 'Rex v. Davies', (1906) 1 K. B. 32 (O), that the King's Bench Division has the power to punish contempts of inferior Courts. In coming to such a conclusion Wills J. remarked at p. 37:

"The present King's Bench Division of the High Court stands in the place of the three ancient Superior Courts of Common law, and besides representing the powers and exercising the authority of the Courts of Common Pleas and Exchequer inherits all the jurisdiction and powers of the Court of King's Bench. From the most ancient times that Court exercised functions which belonged to no other Court in the Kingdom. They do serve to show the very great trust reposed in the Court of King's Bench in respect of its control and superintendence of all inferior Courts, and that it is in a special manner the guardian and protector of public justice throughout the Kingdom."

Later on, after considering the principle which is the root of and underlies the cases in which persons have been punished for attacks upon Courts and interferences with the due execution of their orders, Wills J. remarked at P. 42 :

"If it is to be secured at all in the case of the inferior Courts it can only be secured by the action of this Court, for they have not the power to protect themselves; and if it be true that the King's Bench is in any sense the 'custos morum' of the Kingdom, it must be its function to apply with the necessary adaptations to the altered circumstances of the present day the same great principles which it has always upheld. 'Law', to use the words, of Lord Coleridge, 'grows; and though the principles of law remain unchanged, yet (and it is one of the advantages of the common law) their application is to be changed with the changing circumstances of the time.'" Later on at p. 42 Wills J. observes: "The preservation of the stream of justice in the case of other Courts could affect no other Court than that which was exercising the jurisdiction. They were not the *custos morum* (to use Hawkins' phrase) in any sense analogous to that which the phrase bears when applied to the King's Bench, whose peculiar function it was to exercise superintendence over the inferior Courts and confine them to their proper duties. This, however, as it seems to us, was only one exercise of the duty of seeing that they did impartial justice, and if and when the attainment of that end required

that the misdeeds of others should be corrected as well as the misfeasances of the inferior Courts themselves, it seems to us that it is no departure from principle, but only its legitimate application to a new state of things, if others whose conduct tends to prevent the due performance of their duties by those Courts have to be corrected as well as the Courts themselves."

36. In -- 'Rex v. Editor of the Daily Mail', (1921) 2 K. B. 733(P), Avory J. remarked at p. 752, after quoting from (1908) 1 K. B., 32(O).

"The result of that judgment is to show that wherever and whenever this Court has power to correct an inferior Court, it also has power to protect that Court by punishing those who interfere with the due administration of justice in that Court. It is admitted that this Court always had had jurisdiction to correct courts-martial either by the process of certiorari or by prohibition, and, that being so, it appears to follow from this judgment in the case of -- 'Rex v. Davies', (D) that the Court also has power to protect a court-martial by punishing those who interfere with the due administration of justice in it."

It, follows that the King's Bench exercises power of punishing contempt of inferior Courts, not because they are inferior Courts, but because they are such inferior Courts over whom the King's Bench exercises power of correction. If the High Court can correct the other Court it has also to give it protection from unjustified attacks. As this Court has no power of correcting the proceedings of the Court of an Assistant Collector, first class, it cannot on the basis of English law be said to have the power of punishing contempt of those Courts.

37. I am, therefore, of opinion that the Court of the Assistant Collector, first class, under the Land Revenue Act is not subordinate to the High Court and that, therefore, the High Court has no jurisdiction to take proceedings for contempt of the Court of the Assistant Collector, first class, under the Land Revenue Act, I would, therefore, allow the preliminary objection.

Mushtaq Ahmad, J.

38. This is an application praying that the opposite party be committed for contempt of Court, the alleged contempt being of Mr. G. S. Seth, S. D. O., Salimpur, district Deoria.

39. The basis of the charge was that the opposite party had sent a letter to the said officer on 16-9-1947, with reference to a proceeding for correction of entries then pending in his Court. Those proceedings had been initiated by one Sia Ram against one Vidyarthi Das in respect of a certain property appertaining to what is known as the Lakhna Asthan.

40. The letter in question did not, in fact, purport to have been addressed to Mr. G. S. Seth. It may, however, be rendered into English as follows:

"Sri Baba Vidyarthi Dasji is the Mahant of Lakhna Kutti. On the 30th July 1947, at noon I went and stayed there for some time. I learnt from the people, old, young, tenants, banyas, zamindars and cultivators that the Asthan was his. A certain old worker in the Post Office, who has no connection with this Kutti, has raised a dispute alleging the same to be his and only to cause harassment."

There can be no doubt that this letter did refer to the proceedings then pending in the Court of Mr. G. S. Seth, Sub-Divisional Officer as there is no suggestion, that it had reference to any other proceeding initiated against Baba Vidyarthi Das. The opposite party was himself present in Court on the first day of hearing, and there was no indication of any desire in his behalf to negative this position. Nor had any attempt been made by him in his counter-affidavit in this case to suggest that the allusion in the letter was to any other proceeding by Sia Ram who was in fact, a 'post office worker'. Indeed, the opposite party tried to justify the contents of the letter in paras 7 and 8 of that affidavit.

41. A preliminary objection was taken by Mr. C. S. Saran, learned counsel for the opposite party, to the hearing of this application on the ground that the alleged contempt being of a revenue officer in respect of proceedings under the Land Revenue Act, this Court had no jurisdiction to entertain the same, as that officer was not 'subordinate' to it within the meaning of Section 2, Sub-section (1), Contempt of Courts Act, 12 of 1926. That sub-section reads as follows :

"Subject to the provisions to Sub-section (3) the High Court of Judicature established by Letters Patent shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of Contempts of Courts subordinate to them as they have and exercise in respect of contempts of themselves."

"The decision of this preliminary objection would entirely depend on the scope to be assigned to the words "Courts subordinate" in the above section, that is to say, in this case, on whether the Sub-divisional Officer, Salimpur was, under Section 2 (1) of the said Act, a "Court subordinate" to the High Court. There can be no doubt that that officer was a 'Court', as defined in Section 3, Evidence Act, which provides that " 'Court' includes all Judges and Magistrates, & all persons, except arbitrators, legally authorised to take evidence."

42. The difficulty arises with regard to the meaning and implications of the word 'subordinate' in Section 2(1), Contempt of Courts Act. This, in my view, should be determined from certain general stand-points and not on a narrow and restricted meaning of the word, as normally ascribed to it in judicial proceedings. The question having arisen in connection with a charge of contempt of Court, it must be considered not only in this narrow perspective, but also in the background of the previous history of the law dealing with the jurisdiction of the High Court to punish contempt of Courts of inferior jurisdiction. It would also be necessary to consider the question in the light of certain well known rules of interpretation of statute, in so far as they bring into prominence two divergent aspects, each leading to a different consequence. Lastly, it would be useful to examine the case-law on the point and eventually too see whether all these different considerations lead to the result at

which I have arrived, namely that a Sub-divisional Officer is a Court 'subordinate' to the High Court within the meaning of Section 2(1), Contempt of Courts Act.

43. The literal meaning of the word 'subordinate' in Webster's Dictionary is 'inferior in order, nature, importance or the like' and as a noun it is described as 'one who stands in order or rank below another'. The word 'inferior' in the same dictionary is described as 'of lower degree or rank in any scale' or 'of less importance, value or merit' and is shown as synonymous with 'subordinate'.

44. An examination of the law relating to contempt in England would undoubtedly reveal that inferiority in rank was always taken as a test of subordination to a higher Court 'in matters relating to that offence'. The Court of the King's Bench exercised an extensive jurisdiction in punishing contempt of inferior Courts, though not so much as a Court of record as by virtue of its being a 'custos morum' under the common law. The contempt committed was not considered to be so much of the Judge as of the sovereign whom he represented, and it was popularly accepted that any attempt to undermine his dignity or to interfere in his administration of justice was to pollute the stream of justice and bring about a state of affairs which the law could not sanction. The two leading cases on this point are those of '(1903) 2 K. B. 432 (N) and (1906) 1 K. B. 32 (O)', the judgment of the Bench in each case being delivered by Wills J. At p. 442 of the former report the learned Judge observed as follows:

"Many inferior tribunals are not Courts of record, and, therefore, have no means of checking practices of the kind with which we are dealing. Many of them sit only at long intervals, and, before they can do anything to interfere with such offences against public justice, all the mischief possible may have been effectually done. This Court exercises a vigilant watch over the proceedings of inferior Courts, and successfully prevents them from usurping powers which they do not possess or otherwise acting contrary to law. It would seem almost a natural corollary that it should possess correlative powers of guarding them against unlawful attacks and interference with their independence on the part of others."

Later, 'on page 443,' the learned Judge, adopting the dictum of Wright J. said that "We should hesitate long, before casting any more doubt than may already exist upon the capacity of this Court to deal by proceedings for contempt with cases in which attempts are made to pollute the stream of justice, and to interfere with its proper and unfettered administration by Courts which possess no adequate means of protecting themselves in this respect."

In the latter case '(1906) 1 K. B. 32 (O)' the same learned Judge at p. 39 quoted with approval Section 4 of Howkiris' Pleas of the Crown, Bk. 2, C. 3, to the effect that "Neither is it necessary in a prosecution of any such offence in this Court to show a precedent of the like crime formerly punished here, agreeing with the present in all its circumstances, for this Court being the 'custos morum' of all the subjects of the realm, 'wherever it meets with an offence contrary to the first principles of common justice,' and of dangerous consequence to the public, if not restrained, will adapt such a punishment to it as is suitable to the heinousness of it".

Again, 'on page 40', it was remarked :

"But what possible difference in principle can there be in respect of direct attacks upon Courts or judges, and of writings, the tendency of which is to deprive the inferior Courts beforehand of the possibility of doing even-handed and impartial justice according to the due course of law?"

The position was further affirmed in the following emphatic words:

"The mischief to be stopped is in the case of the inferior Courts identical with that which exists when the due administration of justice in the Superior Courts is improperly interfered with. The reason why the Court of King's Bench did not concern itself with contempts of the other superior Courts was that they possessed ample means and occasions for protecting themselves. Inferior Courts have riot such powers, although some of them, quarter sessions for example, try many more cases than are tried at assizes and have a very extended and important jurisdiction. The danger is perhaps greater to them than it is to the Superior Courts of having their efficiency impaired by publications such as those which have given rise to the present proceedings."

A few years later, the question again arose of the jurisdiction of the King's Bench to punish contempt of inferior tribunals, and in '(1021) 2 K. B. 733 (P)' it was held that a Court-martial was an 'inferior Court? within the meaning of the judgment in '(1908) 1 K. B. 32(O)'. Referring to the latter case Avory J. remarked that:

"the result of that judgment is to show that wherever' and whenever this Court has power to correct an inferior Court it also has power to protect that Court by punishing those who interfere with the due administration of justice in that Court.....".

45. The above passages leave no doubt that in England it was generally recognised that the Court of the King's Bench had full authority to punish contempt of all inferior Courts, and the main test applied was whether the Court aggrieved stood in a lower rank with reference to that Bench. The principle underlying the rule was that the Court of the King's Bench, as the guardian of good conduct in the realm and supreme protector of the dignity and independence of inferior Courts, had full jurisdiction to punish persons guilty of contempt not only of itself but also of those other Courts and tribunals which stood in a lower scale. One of the questions to be considered in the present case would be whether the same principle was applicable in this country also or, on the contrary, a different rule prevailed, and if so, for what particular reasons. 'Prima facie', there appears to be no basis for any variation on the point in this country, for the obvious reason that the principles governing the rule appear to be of general application as serving a common policy.

46. In India the Supreme Court of judicature, which was the predecessor of the Calcutta High Court, was under Clause (2) of its Charter granted under 13 George, III, c. 63, made a Court of record. The

same position was conferred on the Calcutta High Court under its Letters Patent. The Allahabad High Court was also under Clause 1 of its Letters Patent made a Court of record, and the recognition was maintained by Section 220, Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order 1947. By virtue of this, the High Court had inherent power of punishing its own contempt, long before the Contempt of Courts Act 12 of 1926 was passed. This was affirmed by the Judicial Committee in -- 'Surendra Nath Banerjee v. The Chief Justice and Judges of the High Court at Port William in Bengal', 10 Cal. 109 (Q). It was clearly pointed out 'in the matter of K. Venkat Row,' 12 Ind. Cas. 293 (Mad) (R) that the High Court had the same power as the old Court of the King's Bench. This position is indeed not challenged.

47. The scope of the jurisdiction to punish its own contempt has even been extended to areas outside the territorial jurisdiction of the High Court, as would appear from -- 'Kilachand Devchand & Co., Ltd. v. Ajodhya Prasad Sukhanand & Co.', AIR 1934 Bom 452 (S) and the well known ruling of this court in -- 'Emperor v. Benjamin Guy Horniman', AIR 1945 All 1 (T). Mujumdar J. in -- 'Onkermull Jalan v. Padampat Singhanian', 53 Cal. W. N. 310 (U) in this connection held that "in matters of contempt the High Courts which have inherited the powers of the Supreme Court exercise somewhat extra-ordinary jurisdiction, and the powers are arbitrary. Consequently no territorial limitation should be put in cases of contempt which is really a contempt against the Sovereign, when neither any statute nor the provisions of the Charters expressly put such limitation".

I mention these cases only as illustrating the tendency to give a wide jurisdiction to the High Court to punish contempt, though of itself, for a very sound reason, namely that nothing should be allowed to contaminate the administration of justice, and none found guilty of it should go without punishment.

48. An examination of certain cases in this country would also lead to the position that the High Court has power to punish contempt of inferior Courts. In the Full Bench case in 'AIR 1920 Bom. 175, (G) Marten J. remarked that "It makes no difference. I think that the alleged abuse here was of a District, and not of a High Court Judge. -- 'Rex v. Davies', (1908) 1 KB 32 (O) shows that in England the High Court has power to protect the Courts of inferior jurisdiction and that in a proper case it should do so. I think the same power exists in India, and that, subject to the precautions which Lord Russell mentions on pp. 40 and 41 this Court should extend its protection to all Courts in the mufassil, over which it exercises its supervision".

49. Quite recently the Judicial Committee in -- 'A. I. R. 1945 P. C. 156 (M), reversing the judgment of the Calcutta High Court in -- 'Emperor v. Hemendra Prosad', AIR 1939 Cal. 529 (V) held that the Home Minister was an officer "subordinate" to the Governor within the meaning of Section 49(1), Government of India Act, 1936. The basis of the view obviously was that the Home Minister stood in a position of inferiority to the Governor, although this was not a 'subordination' in which that word was generally known.

50. The policy I mentioned at the outset, namely to authorise the highest Court to protect the honour and pr-estige of all inferior Courts is found illustrated in a variety of ways. The Madras High Court in '12 Ind. Cas. 293 (Mad) (R), already referred to by me in another connection held that, on

principle, there was no reason why there should be a distinction between cases of contempt of inferior civil Court and contempt of an inferior criminal Court. The Rangoon High Court in 'AIR 1940 Rang. 68 (F) at page 70 pointed out that a Magistrate, holding an enquiry into the cause of death, who must come to a finding as to what caused that death came within the definition of a 'Court, and that that word was used in the Contempt of Courts Act in that wider sense. The learned Judges observed that such a Magistrate was a Court 'inferior' to the High Court for the purposes of Section 435, Criminal P. C. and that the words "subordinate Court" in the Act were used in a wide sense as including any Court over which the High Court had superintendence for the purposes of S. 85, Government of India Act, 1935, that is to say, all Courts subject for the time being to its appellate jurisdiction. Sulaiman J., no doubt, in 'AIR 1926 All. 623 (H) left the question of the subordination of criminal Courts to the High Court in cases of contempt open. I shall deal later with the implications and scope of the word 'superintendence' and the word 'appellate' in proper context.

51. There can, thus, be no doubt that the test of the High Court's jurisdiction over another Court was the comparative inferiority of the Court over which such jurisdiction was claimed, without meaning that this inferiority necessarily subjected the inferior Court in every detail to a position of control by and subordination to the High Court.

52. Learned counsel for the opposite party pressed his objection to the hearing of the present application also with reference to the provisions of Section 224(1), Government of India Act, placing it along side the previous law as contained in Section 15, High Courts Act of 1865, and section 107, Government of India Act of 1915'. The former provided 'inter alia' that "Each of the High Courts established under this Act shall have superintendence over all Courts which may be subject to its appellate jurisdiction...."

and the latter also embodied the same provisions. The present Act of 1935, in section 224(1) of it, reproduces the same law with a slight verbal change. The argument was that this Court could not be conceived as having a right of superintendence over any other Court in the country, unless the latter was subject to its 'appellate jurisdiction' and that a Court acting under the Land Revenue Act, not being subject to such jurisdiction, did not come within the scope of superintendence of the High Court. The question would depend on the meaning of the words 'appellate jurisdiction'. If the revenue Court could be deemed to be under the appellate jurisdiction of the High Court, it would also be subject to the superintendence of the High Court. Such superintendence may or may not exist, where the other Court is not subject to the appellate jurisdiction of the High Court. On that question there is a good deal of divergence in the case-law, some cases holding that there may be superintendence exercised by the High Court even where it only exercises a power of revision, and not of appeal, over another Court, and some denying the superintendence altogether. For the purposes of the present case, in the first instance, I propose to consider whether the revenue Court can be regarded to be under the appellate jurisdiction of the High Court, for, if it can be, then superintendence 'a fortiori' must be implied. I proceed now to consider this.

53. The contention of the learned counsel raising the preliminary objection was that 'appellate jurisdiction did not mean such jurisdiction in any particular respect, but in all cases coming within the ambit of the power of the inferior Court. Section 112, U. P. Land Revenue Act provides that "all

decrees passed under Sub-section (3) of the preceding section shall be held to be decrees of a Court of Civil judicature of the first instance and shall be open to appeal to the District Judge or High Court, or the Judicial Commissioner, as the case may be, under the rules applicable to appeals to those Courts".

That is to say, in matters of title in partition suits the revenue Court is to be deemed to be a civil Court, and its decree may be appealable in certain cases to the High Court. Admittedly, there is no other case coming under the Act, in which also the High Court may exercise appellate jurisdiction. It was contended that such jurisdiction being thus confined to a particular class of cases, namely those of title in partition suits, and not exercised in any other case under the Act*, the revenue Court could not be deemed to be under the 'appellate jurisdiction' of the High Court within the meaning of section 224(1), Government of India Act, 1935. The learned counsel for the applicant, on the other hand, replied that if the High Court enjoyed an appellate jurisdiction over the revenue Court in any respect whatsoever, it could be regarded as a Court having " 'appellate jurisdiction' over that Court. That is to say, according to him, it was not necessary that such jurisdiction may be exercisable in other respects also. There is ample authority in the case-law which throws lurid light on this question, and, in my opinion, it is by no means difficult) of solution.

54. In -- 'Chaitan Patgosi v. Kunja Behari'. 38 Cal. 832 (W) the Bench, after a consideration of several cases, adopted the dictum of Norman in -- 'Bhyrub Chunder v. Shama Soonderee', 6 W. R. 68 (X) to the following effect:

"It is clear that the Collector's Court is a Court over which at the time of the passing of the Charter Act the Sudder Court possessed Appellate Jurisdiction, and therefore it is clear that the 15th section of the Charter Act gives us a superintendence over such Courts for the purpose to which I have already alluded".

that purpose being "to compel them to do any act which by law they should do, to command them to execute all powers with which they are vested and to restrain them from meddling when they have no jurisdiction".

Proceeding further, the learned Judges, referring to a judgment of Sir Barnes Peacock, C. J. and D. N. Mitter J. in -- 'Desaratulla v. Nazim Nazir Ali', 10 W. R. 341 (Y) observed that "The Execution of Decrees for Rent Act 10 of 1859 conferred upon the Revenue Courts only a limited jurisdiction and the High Court under its general power of control had the right to prevent them from exceeding that jurisdiction".

In 40 Cal 518 (I), another Bench following the last case held that proceedings on application for enhancement of rent were judicial proceedings, and, in view of the express provisions of section 224 (2), Chhota Nagpur Tenancy Act (Beng, 6 of 1908) which allowed 'in certain cases' a second appeal to the High Court, the Deputy Commissioners, in the performance of their judicial duties under that Act, were subject to the appellate jurisdiction of the High Court. This was in spite of the fact that, under that Act, the powers of revision, direction & control were vested in the Commissioner and in the Board of Revenue and not in the High Court. The case just cited had also relied upon the

judgment of the Judicial Committee in '9 Cal. 295' (P. C.) (A) which was a case of a claim to title in a rent suit giving the Collector certain powers of deciding the question and entitling the party aggrieved by his decision to re-agitate the question in the civil Court. The question was with regard to the meaning of the words "civil Court" in Section 77, Execution of Decrees for Rent Act, 10 of 1859, and their Lordships remarked that:

"It must be allowed that in those sections (of Act 10 of 1859) there is a certain distinction between the civil Courts there spoken of and the Rent Courts established by the Act and that the Civil Courts referred to in Section 77 and the kindred section means Civil Courts exercising all the powers of Civil Courts, as distinguished over suits of a limited class. In that sense there is a distinction between the terms, but it is entirely another question whether the Rent Court does not remain a Civil Court in the sense that it is deciding on purely civil questions between persons seeking their civil right and whether, being a civil Court in that sense, it does not fall within the provisions of Act 8 of 1859 (Civil Procedure Code)."

56. In AIR 1953 Bom 1 (D) a Pull Bench of the Bombay High Court, while deciding the meaning of the relevant words in Section 107, Government of India Act, 1915, pointed out that the special Courts under the Emergency Power Ordinance 1932 were Courts subject to the appellate jurisdiction of the High Court, because, under Section 39, the High Court had power to hear appeals in 'certain cases,' it being immaterial that there was no right of appeal to the High Court in all cases, because, if there was a right of appeal in any case to the High Court, the Court from which an appeal was allowed was subject to the appellate jurisdiction of the High Court which would then exercise the right of superintendence in respect of all matters and not only those matters in respect of which a right of appeal was given.

57. The Calcutta High Court, again, in AIR 1933 Cal 118 (E), held that the High Court had jurisdiction to entertain an application for contempt of the Commissioner's Court, even though the right of appeal from Commissioner's Court was less extensive than the right of appeal from the ordinary criminal Courts in that there was no ordinary right of appeal to the High Court from the Commissioner's Court and that the fact that the rule-making power with regard to the Commissioner's Courts was vested in the local Government was immaterial, for, under Section 107, the rule-making power was something different from and additional to the right of superintendence. This was a case calling in question certain improper comments in the Amrita Bazar Patrika on proceedings pending before the Commissioner appointed under the Bengal Criminal Law Amendment Act, 1930. The High Court was held as having full jurisdiction to punish the contempt committed.

58. A number of cases under the Workmen's Compensation Act arose, in which an order of the Commissioner appointed under that Act being challenged in the High Court, the question was whether he was a 'Court subordinate to the High Court'. It was held that, as Section 30 of the Act allowed an appeal to the High Court where the amount in dispute was over Rs. 300/-, the Commissioner was under such jurisdiction of the High Court. Some of these cases are: -- 'Firm G. D. Gianchand v. Abdul Hamid', AIR 1938 Lah 855 (Z) and -- 'Mt. Dirji v. Smt. Goalin', AIR 1942 Pat 33

(Z 1).

59. Cornelius, J. in -- 'Sultan AH v. Nur Hussain', AIR 1949 Lah 131 at p. 137 (Z 2), in a case of contempt of a special Tribunal, expressed himself thus:

"The High Court is also the superior Court within the province, charged with the duty of setting limits to the jurisdiction of all other judicial tribunals or Courts within the province, and this imports subordination in the latter tribunals qua the High Court. Further, if it can be shown that over 'any part of its' jurisdiction, a tribunal is directly subordinate to the appellate or revisional authority of the High Court then it must be held to be subordinate to the High Court in the respects relevant for the application of Section 115, Civil P. C."

A Full Bench of this Court (Lucknow branch) in AIR 1950 All 80, at p. 84 (B), on a review of the relevant case-law on this point, made the following observations:

"A very great difference exists between the Workmen's Compensation Act and the payment of Wages Act, inasmuch as the former Act provides for an appeal 'from certain orders' of the Commissioner appointed under the Act to the High Court, while the latter does not provide for any such appeal. Thus under the Workmen's Compensation Act, the Commissioner is a Court subordinate to the appellate jurisdiction of the High Court and can well be held to be a Court subordinate to the High Court for the purposes of Section 115, Civil P. C."

60. There can thus be no doubt that, where a certain order of a Court is subject to an appeal to the High Court, that Court is subject to the 'appellate jurisdiction' of the High Court, no matter if, against so many other orders of that Court, there is no right of appeal to the High Court. Any other view would inevitably raise the question as to where the line is to be drawn, 'namely in the case of how many orders there should be a right of appeal to the High Court in order to make that Court exercise a position of control over another Court which may on that account, be deemed to be subordinate to the High Court'. I put it repeatedly to the learned counsel raising the preliminary objection to define the position and, very naturally, he appeared helpless. The 'number' of the species of cases' in which appellate jurisdiction can by statute be exercised by the High Court cannot alone determine the existence of such jurisdiction in the abstract but also the factum of 'any' order of a certain Court being appealable to the High Court. Otherwise, an arbitrary and meaningless minimum will have to be fixed of the orders appealable to the High Court to justify a designation of the inferior Court as one subject to the 'appellate Jurisdiction' of the High Court. Such a process would neither be logic nor law.

61. In the present case, an order of the revenue Court under Section 112 at least of the Revenue Act being in certain cases appealable to the High Court, the latter Court would be deemed to be exercising an 'appellate jurisdiction' over the revenue Court, and the revenue Court would, on that account, be subject to the 'appellate jurisdiction of the High Court.

62. it would be useful to visualise the anomalies - resulting from a contrary view in the present case and others like this. I repeatedly asked the learned counsel for the opposite party to explain why the Legislature, in case his contention was right, omitted to protect the dignity and honour of Land Revenue Officers against such conduct with reference to them as amounted to contempt of Court. No answer came. I cannot imagine that the Legislature should have been so lacking in foresight, so barren prospectively, as not to have foreseen the possibility of people encroaching on the freedom and integrity of this particular class of officers, thereby interfering with their judicial functions with impunity, when the law, both in England and in India, was so jealous of the independence of all Courts and Judges and of their immunity from all attacks and affronts as a member of the public in any manner ventured to commit. Surely there could have been no judicial basis for such an illogical discrimination between other Courts including the High Courts on the one side and officers presiding over revenue Courts on the other. And yet this would be the result, if a restricted meaning were to be given to the words 'appellate jurisdiction' in Section 224(1), Government of India Act.

63. The same position is reached by taking into account the normal rules of interpretation of statutes in England, as also followed in India. Maxwell in his "Interpretation of Statutes", Edn. 9, pp. 70 and 71, points out that the construction of a statute should be such as shall "suppress the mischief and advance the remedy" and, again, on p. 212, observes that, an interpretation, the consequence of which would be to lead to an absurdity, must be avoided. In --'Nokes v. Doncaster Amalgamated Collieries, Limited', (1940) A. C. 1014 at p. 1022 (Z3), Viscount Simon L. C. observed that "If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, we should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result."

I am tempted further to quote an observation of Dawson-Miller C. J. in the Full Bench case of --'Sheo Nandan Prasad Singh v. Emperor', AIR 1918 Pat 103 (Z4), at p. 105 which itself was based on -- 'Vacher and Sons Ltd. v. London Society of Compositors', (1913) A. C. 107(Z5):

"I agree that if a statutory enactment is ambiguous and capable of two interpretations, one is entitled to take into consideration that there are certain consequences which it may be presumed the Legislature did not intend to bring about! and to prefer a construction which would avoid such consequences rather than one which would lead to them."

The absurdity of accepting the restricted meaning stressed by the learned counsel for the opposite party for the words "subordinate Court" would be to eliminate an important class of officers conducting Judicial proceedings in this country from the protection enjoyed by all other Courts over which the High Court can exercise a power of appellate or even revisional jurisdiction. This cannot be conceived as coming within the intention of the Legislature or being sanctioned by any sound legal principle.

64. A number of cases were cited by the learned counsel for the opposite party in support of his preliminary objection. I do not propose to deal with them in detail, apart from saying that they were

either cases where the question was whether the High Court had revisional jurisdiction over a certain Court or tribunal under Section 115, Civil P. C. or were cases in which it was contended that a revision lay to the High Court under S, 253, Tenancy Act, and it was held that that section did not permit the same. Some cases were also cited arising under the U. P. Municipalities Act, wherein it was ruled that the High Court had no jurisdiction to entertain a revision against an order of an Election Commissioner appointed under that Act. None of these questions need be considered in the present case which is susceptible of a much simpler solution, depending on the meaning of the words "subordinate Court". I have already held that, having regard to the history of the law of contempt in England and also as engrafted in the Indian Legal system, both prior and subsequent to the Contempt of Courts Act 12 of 1926, followed by the Amendment Act 12 of 1937, and also in view of the literal meaning of the words 'subordinate Court' in section! 224(1), Government of India Act and the interpretation of those words in the Indian case-law, there is only one conclusion possible, namely that the High Court has complete jurisdiction to protect the honour and dignity of all inferior Courts including those, under the Land Revenue Act.

65. I would, therefore, hold that the Court of Mr. G. S. Seth, S. D. O. Salimpur, was subject to the 'appellate jurisdiction' of the High Court, which was vested with a power of superintendence over it within the meaning of Section 224(1), Government of India Act, 1935.

66. Accordingly, I would disallow the preliminary objection taken by the learned counsel for the opposite party to the hearing of this application.

BY THE COURT

67. In view of the difference of opinion between us, we order that the case be laid before the Hon'ble the Chief Justice for obtaining the opinion of a third Judge on the following question:

"Is the Court of an Assistant Collector, First Class, under the Land Revenue Act subordinate to the High Court for the purposes of section 2 (1), Contempt of Courts Act (12 of 1926)?"

(Note. After the reference was made an application was filed by Sri S. N. Dwivedi, the counsel through whom the applicant had moved the High Court, that his client did not wish to press the application. The case was, however, not put up for orders and on 10-10-1950, another application was filed by Sri Kripa Shanker Sinha, Advocate, that the application was filed under undue influence and the applicant wished to proceed with the application. Upon this Malik C. J. observes:

"It appears to me that unless it is first held that a contempt was committed it is no use going further with these proceedings. I have said more than once that the question whether a party is guilty of contempt or not is a matter primarily for the Court and we cannot allow parties to use the proceedings for contempt to wreak their private vengeance or to further their own interest. It is for the Court to decide whether it will or will not take steps to punish for contempt and what punishment, if any, it would award, teamed counsel has urged that I can consider only the point

referred to me and cannot consider or pass orders on the two applications filed by the applicant. The two applications filed on 29th September and 10th October, 1950, may, therefore, be put up before the Bench concerned and in case the Bench is still of the opinion that the case should be referred to a third Judge, the papers may be put up before me for orders. When the matter came before the Division Bench, Dayal, J. who made the order, said:

"As we differed about our having jurisdiction to take action with respect to contempt committed of the Court of an Assistant Collector, First Class, acting under the provisions of the Land Revenue Act, it is necessary that that question be first decided before we enter into the question of merits. For the same reason we did not hear either of the parties on merits on the previous occasion and expressed no opinion on that point. We, therefore, order that the case be again laid before the Hon'ble the Chief Justice for his opinion on the point on which we had differed." The matter thus was placed before a third Judge who delivered his opinion as follows:) Wali Ullah, J.

68. The question which has been referred to me for opinion reads thus:

"Is the Court of an Assistant Collector, First Class, under the Land Revenue Act, subordinate to the High Court for the purposes of Section 2 (1), | Contempt of Courts Act (12 of 1926)?"

Section 2, Sub-section (1), Contempt of Courts Act (12 of 1928) stands thus:

"Subject to the provisions of Sub-section (3), the High Courts of Judicature established by Letters Patent, shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of Courts subordinate to them as they have and exercise in respect of contempts of themselves".

Sub-section (3) reads:

"No High Court shall take cognizance of a contempt alleged to have been committed in respect of a Court subordinate to it where such contempt is an offence punishable under the Indian Penal Code".

69. It is thus clear that under Section 2, Contempt of Courts Act, this Court has the same jurisdiction, powers & authority "in respect of contempts of Courts subordinate to it", as it has, and exercises in respect of contempts of itself. The only limitation, however, imposed on such jurisdiction is the one contained in Sub-section (3) i.e. that the High Court shall not take cognizance of a contempt in respect of a Court subordinate to it where such contempt is an offence punishable under the Indian Penal Code. I may here observe in passing that as the result of case-law, it is now well-settled that, under Sub-section (3), the High Court is precluded from taking cognizance of a contempt alleged to have been committed in respect of a Court subordinate to it only when such

contempt is punishable 'as a contempt' under the Indian Penal Code Vide -- 'Emperor v. Jagannath Prasad', AIR 1938 All 358 (Z6). The view taken in this case was affirmed by a Full Bench of three learned Judges of this Court, to which I myself was a party, in -- 'State v. Brahma Prakash', AIR 1950 All 556 (F.B.) (Z7). The High Courts of Patna, Calcutta, Lahore and Nagpur have also taken the same view vide -- 'Kaulashia v. Emperor', AIR 1933 Pat 142 (Z8), -- 'Dharnidhar Singha Roy v. Satish Chandra', AIR 1932 Cal 705 (Z9), -- 'Bennett Coleman & Co. Ltd. v. G. S. Monga', AIR 1936 Lah 917 (Z10) and -- 'Sub-Judge, First Class, Hoshangabad v. Jawahar Lal Ram Chand', AIR 1940 Nag 407 (Z11).

70. Again, it must be borne in mind that the Contempt of Courts Act does not create any fresh powers at all. It merely recognises the fact that such powers already existed. It no doubt seeks to define and limit the powers. Professedly, the Act was passed to remove doubts as to the powers of a High Court to punish contempts of 'subordinate courts'. Later by the amending Act of 1937, the word "subordinate" was omitted. The Act is not described as a codifying and consolidating Act, nor are its contents such as would make the Act a codifying and consolidating piece of enactment, it seems to me, therefore, that it is not permissible to construe it as such. Further, it is clear, to my mind, that the quantum of authority and powers possessed by the High Court, prior to the passing of the Contempt of Courts Act which came into force on 1-5-1926, would have a very important bearing on the question which has to be decided. Prior to the enactment of this Act, High Courts in India, so far as the law of contempt of Courts was concerned, acted entirely in accordance with the principles followed by English Courts. It is, therefore, very necessary to bear in mind the principles of English law relating to contempt of Court while interpreting the Indian enactment. It seems to me that the provisions of Sub-section (1) of Section 2 of the Act have to be interpreted against the background afforded by the English Law relating to contempt of Court.

71. The law relating to contempt of Court in England clearly shows that the Court of King's Bench possessed extensive powers for punishing contempts of inferior Courts. This was under the Common law. The Court of the King's Bench was undoubtedly a Court of record and. under the Common law it had always been looked upon as a 'custos moram' (guardian of the morals) of the Citizens of the Realm. In the leading case of (1903) 2 K. B. 432 (N), Wills, J. delivering the judgment of the Court, observed at p. 442 :

"Many inferior tribunals are not Courts of record, and therefore, have no means of checking practices of the kind with which we are dealing. Many of them sit only at long intervals, and before they can do anything to interfere with such offences against public justice all the mischief possible may have been effectually done. This Court exercises a vigilant watch over the proceedings of inferior Courts, and successfully prevents them from usurping powers which they do not possess, or otherwise acting contrary to law. It) would seem almost a natural corollary that it should possess correlative powers of guarding them against unlawful attacks and interference with their independence on the part of others."

The question, however, was, in a way, left open, for at p. 443, the learned Judge remarked thus "We should hesitate long before casting any more doubt than may already exist upon the capacity of this

Court to deal by proceedings for contempt with cases in which attempts are made to pollute the stream of justice and to interfere with its proper and unfettered administration by Courts which possess no adequate means of protecting themselves in this respect."

72. The next English 'case which took the matter a step further and definitely decided that the King's Bench Division had power to punish by attachment contempts of inferior Courts is (1906) 1 K. B. 32 (O). Wills, J., who delivered the judgment in this case also, approvingly referred to what had been said in the earlier case of --'The King v. Parke', (N). After examining the available authorities, the learned Judge observed at p. 47:

"The mischief to be stopped is in the case of the inferior Courts identical with that which exists when the due administration of justice in the Superior Courts is improperly interfered with. The reason why the Court of King's Bench did not concern itself with contempts of the other Superior Courts was that they possessed ample means and occasions for protecting themselves. Inferior Courts have not such powers, although some of them, quarter sessions for example, try many more cases than are tried at assizes, and have a very extended and important jurisdiction. The danger is perhaps greater to them than it is to the Superior "Courts of having their efficiency impaired by publications such as those which have given rise to the present proceedings."

73. The next case which may be noticed is that of (1921) 2 K. B. 733 (P). In this case Farnsworth was tried before a court-martial on charges of desertion and loss of kit. He was found guilty and sentenced. The finding of guilty as well as the sentence of the court-martial were, however, subject to confirmation. Before confirmation the 'Daily Mail' published an article in regard to the proceedings of the court-martial. The Court applied the principle laid down in the case of the --'King v. Davies', (O), (ubi supra). It was held:

"Where contempt of Court is committed against a court-martial by a person not subject to military law, the King's Bench Division has inherent jurisdiction on the application of a party to the proceeding's before the court-martial who as aggrieved by the contempt to punish the person guilty of the contempt."

At p. 748, Lord Coleridge J. observed :

"A court-martial has no inherent power apart from statute to protect itself by such proceedings (i. e. proceedings in contempt), but, if this Court can interfere with the proceedings of a court-martial to check irregularities by that Court, it seems to me that it must also be clothed with inherent jurisdiction to protect a court-martial from contempt calculated or tending to obstruct the administration of justice in that Court."

Similarly at p. 750, Avory J. considered the question of jurisdiction to deal with the contempt of Court in respect of proceedings of a court-martial. The learned Judge observed:

"Having regard to the decision of this Court in -- 'Hex v. Davies', (O), question of jurisdiction resolves itself into a question whether a court-martial is an inferior Court within the meaning of that judgment."

Further, at p. 752, the learned Judge observed:

"The result of that judgment -- 'Rex v. Davies', (O), is to show that wherever and whenever this Court has power to correct an inferior Court, it also has power to protect that Court by punishing those who interfere with the due administration of justice in that Court."

74. In view of the authorities mentioned above, it seems to me that in English law the Court of the King's Bench had, and its successor, the King's Bench Division, has full authority to punish contempt of all inferior Courts i.e. Courts which were or are, subject to a power of correction or superintendence possessed by the higher Court i. e. the Court of the King's Bench or the King's Bench Division.

75. In the present case, the whole difficulty has arisen with regard to the proper interpretation of the expression "Courts subordinate to them" in Sub-section (1) of Section 2. The 'Court' of an Assistant Collector of the First Class, obviously, as its name indicates, is a "Court". It is a Court as understood in the Contempt of Courts Act where the term has been used in a wide sense, as including a tribunal, legally authorized to deal with particular matter judicially. The Assistant Collector is undoubtedly entrusted with certain "judicial functions" ; such judicial functions include the function of "deciding litigated questions according to law" -- deciding them not arbitrarily, but according to certain rules and procedure which ensure that the person called upon to decide them acts with fairness and impartiality.

76. Reference may be made in this connection to the case of -- Mst. Dirji v. Smt. Goalin', AIR 1941 Pat 65 (Z12), where a Full Bench of the Patna High Court held that the Commissioner appointed under the Workmen's Compensation Act is a 'Court'. A further question, whether the Commissioner was a Court subordinate to the High Court within the meaning of Section 115, Civil P. C., was left open by the Full Bench. It was, however, decided by the Division Bench of the same Court in the same case, when it came to it after the decision of the point referred to the Full Bench, that the Commissioner being subject to the appellate jurisdiction of the High Court under Section 30(2), Workmen's Compensation Act, was also subject to the revisional jurisdiction of the High Court under Section 115, Civil P. C.

77. Again, in the case of AIR 1946 Lah 316 (C), decided by a Full Bench of three learned Judges of the Lahore High Court, certain tests were laid down for determining whether a tribunal is or is not a 'Court'. At p. 318, it was observed:

"One of the fundamental tests whether a certain tribunal is a Court or is not so is whether it exercises jurisdiction by reason of the sanction of the law or whether jurisdiction is given to it by the voluntary submission of the parties to a

dispute.....

Another important test whether a certain tribunal is or is not a Court is whether it can take cognizance of a lis and whether in exercising its functions it proceeds in a judicial manner."

78. In AIR 1950 All 80 (B), a Full Bench of three learned Judges of this Court approved of the tests laid down by the Full Bench of the Lahore High Court in the abovementioned case. At p. 81, it was observed:

"The word 'Court' is not a term of art having a fixed meaning. It indicates a large number of entirely divergent things. So far as a Court of law, in the wider sense of the word, is concerned, the tests laid down by the Acting Chief Justice, in -- 'Works Manager, Carriage and Wagon Shops, Mogalpura v. K. G. Hashmat', (C), might well be applied, and it might be held that any person or body of persons, called upon to decide any question of right in accordance with judicial principles and is a tribunal which exercises jurisdiction by reason of the sanction of the law is a Court. It does not, however, follow from this that every such tribunal is a Court of civil jurisdiction to which alone Section 115, Civil P. C. applies".

79. The crucial question here is whether the Court of an Assistant Collector is subordinate to the High Court within the meaning of Section 2 (1), Contempt of Courts Act. In this sub-section.

"subordination" of a Court to the High Court clearly refers to 'judicial subordination'. This has been made clear by the decision of the Pull Bench in the case of -- 'State v. Brahma Prakash', (Z7), (ubi supra).

80. In the course of arguments before me, learned counsel have referred to a number of rulings of this Court as well as of other High Courts. Many of these rulings have dealt with the question of subordination of a Court or tribunal to the High Court within the meaning of Section 115, Civil P. C. Thus in -- H. C. D. Mathur v. East India Railway Administration', (B), (ubi supra) it was held by the Pull Bench of this Court that 'the authority' constituted under Section 15, Payment of Wages Act, is not a 'Court' within the meaning of Section 115, Civil P. C., and consequently no revision lies to the High Court from the order of such authority. To the same effect is the decision given by a Division Bench of this Court in the case of -- 'Triloki Nath v. Lord Krishna Sugar Mills Ltd., Saharanpur', AIR 1946 All 276 (213). Similarly, it was held in -- AIR 1932 All 651 (L) by Iqbal Ahmad J. that a Collector or other officer hearing an appeal under Section 318, U. P. Municipalities Act is not a Court subordinate to the High Court and no revision under Section 115, Civil P. C. lies from his orders. Again, in -- 'Masoon Ali Khan v. Ali Ahmad Khan', AIR 1933 All 764, (Z14), the question involved related to an "election Court" constituted under Section 20, District Boards Act. The question was whether such a Court could be held to be subordinate to the High Court within the meaning of Section 115, Civil P. C. The District Judge had been appointed as the Election Court in that case. It was held that the District Judge in presiding over the Election Court acted as 'persona designata' and not as 'a Court', hence it was held that no revision lay under Section 115, Civil P. C.

Again, in the case of -- 'Raja of Venkatagiri v. Mahaboob Sahib', AIR (1944) Mad 139: ILR (1944) Mad 595 (Z15), a Division Bench of the Madras High Court, held:

"In proceedings under Section 15, Madras Agriculturists' Relief Act, the Sub-Collector and the District Collector hear and determine disputes of a civil nature and the proceedings before them should be regarded as "civil proceedings" and their Courts as "civil Courts" for the purposes of Section 3, Civil P. C."

It was further held :

"The declaration of the relative subordination of the 'civil Courts' in Section 3, Civil P. C. for the purposes of the Code must be taken to cover 'revenue Courts' as well in the absence of any saving of such Courts, and they must be deemed to be subordinate to the High Court and subject to its revisional jurisdiction under Section 115, Civil P. C. Section 3 was intended to declare, as a matter of corollary, the relative status and authority of all Courts including revenue Courts in the hierarchy of civil Courts of which the High Court forms the apex."

Similarly in -- 'Umakant Nayak v. Gyanendra Prasad Bose', AIR 1945 Pat 128 (Z16), it was held by Agarwala J. :

"The Collector acting under Section 204 (5), Orissa Tenancy Act of 1913 is a Court subordinate to the High Court within the meaning of Section 115, Civil P. C. and therefore the High Court has power to revise an order made by him under Section 204 (5)....."

Similarly in -- 'Arjun Rautara v. Krishna Chandra Gajpati Narayan Deo' AIR 1942 Pat 1: 21 Pat 1 (Z17), it was held by a Pull Bench of three learned Judges of the Patna High Court that the Collector's Court acting under the provisions of the Orissa Tenancy Act of 1913 was subordinate to the High Court within the meaning of Section 115, Civil P. C. and its orders could be revised by the High Court. In -- Bazler Rahman Khandakar v. Amiraddin', AIR 1944 Cal 401 (Z18), it was held by a Division Bench of that Court that the District Judge acting under Section 40A, Bengal Agricultural Debtors Act does not act as a 'persona designata', but as 'a Court' subordinate to the High Court, hence his order could be revised by the High Court under Section 115, Civil P. C.

81. The decisions in all the cases referred to* above relating to a right of revision to the High Court under Section 115, Civil P. C., relate to a matter of revision or correction of the decision of an inferior Court held to be subordinate to the High Court. In a case of the present character, however, obviously there is no question of correction or revision by a superior Court of an order passed by an inferior Court. In a case like the present the subordination of an inferior Court to a higher Court i.e. the High Court must necessarily relate to 'the status of the inferior Court as a whole'. It need not refer to the character of a particular order passed by the inferior Court. In this connection, I may refer to the phraseology in "which the question referred to me is couched. The mere fact that an Assistant Collector of the First Class is, at the time when the question arises, acting under, the Land

Revenue Act, or under any other Specific statute, would, to my mind, make no difference. There may or may not be an appeal or a revision available to the High Court against a particular order under a particular statute passed by the revenue Court. It is 'the position of the revenue Court as a whole', and not its position with reference to a particular order passed by it that has to be considered. The object of the provisions of Section 2, Sub-section (1), Contempt of Courts Act is to provide for 'the protection of the position of Courts subordinate to the High Court against unlawful interference with their judicial functions. For such a purpose, and in such a context, the position of an inferior Court i.e. a subordinate Court must be considered in its totality in relation to the High Court and not with reference to a particular Act or provisions of law under which it may happen to be acting at the time when an alleged interference with its judicial activity occurs.

82. I now proceed to consider the decisions referred to by learned counsel in the course of their arguments which relate to cases of Contempt of Court. In AIR 1926 All 623 (H), a Special Bench of three learned Judges of this Court, had to consider the High Court's power to punish contempt of Court committed against an inferior civil Court. It was laid down by the Full Bench:

"Any conduct that tends to bring the authority of the Court into disrespect or which amounts to a false and scandalous attack upon the administration of justice, or an insult offered to the Judge or the dignity of a Judge, even though it may be after the termination of a pending case, amounts to contempt of Court.

The High Court as a Court of Record and . 'as the protector of public' justice 'throughout these provinces has general power of superintendence and control over the inferior civil Courts subordinate to it. It has inherent jurisdiction and power to punish in a summary manner all attempts directed against it or against Courts subordinate to it irrespective of the fact whether the contempt is committed out of Court or in their presence."

In this case, Sulaiman J. at p. 630, while considering the nature of the power of the High Court to protect its subordinate Courts, observed:

"It is not the territorial limits of the jurisdiction of a Supreme Court, but rather the very nature of its constitution that is of importance. The question which one has to consider is whether the power to protect its inferior Courts is not co-eval with its very foundation and institution, and a necessary incident to * every High Court of justice. The circumstance that it is the Supreme Court in these provinces would suggest that it must be armed with the power and have imposed on it the duty of preventing 'brevi manu' attempts to interfere with the administration of justice in the subordinate Courts, for such interference affects the whole administration."

At p. 631, the learned Judge has mentioned three grounds in support of his view. They are: --

"(1) That it is not the indignity of the individual officers which requires to be prevented,, but public confidence in the Courts has to be maintained, (2) that inferior

Courts themselves possess no such powers and would be entirely helpless if even the superior Courts cannot protect them, and (3) that ordinary remedies under the penal laws of the land are meant for offences against officers in their individual capacity and would, if resorted to, be cumbrous and cause considerable delay."

The learned Judge in the course of his judgment has reviewed the leading English cases in support of his view.

83. In 'AIR 1933 Cal 118 (E)' a Division Bench of the Calcutta High Court, had to consider the scope of Section 2(1), Contempt of Courts Act. In particular, it had to consider whether the Court of Commissioners appointed under the Bengal Criminal Law Amendment Act, 1925, was a Court subordinate to the High Court within the meaning of that sub-section. At p. 120, the learned Judges observed:

"It was not suggested that Commissioners are not a Court, and indeed their powers including those of trying, convicting and sentencing are powers peculiar to Courts."

It was held:

"The Court of Commissioners appointed under the Bengal Criminal Law Amendment Act of 1925, is a Court subordinate to the High Court within the meaning of Section 2(1), Contempt of Courts Act."

The reason given for this opinion was that there was a right of appeal to the High Court from the decision of the Commissioners under Section 3(1) of the Act and it followed therefrom that there was power of superintendence vested in the High Court under Section 107, Government of India Act, 1915, which provided for High Courts' power of superintendence over all Courts which were subject to their appellate jurisdiction. The decision of a Special Bench of three Judges of Bombay High Court, in 'AIR 1933 Bom 1 (D)' was followed.

84. in the case of -- 'Bal Krishna Hari v. Emperor', (D) (ubi supra) a Special Bench of three learned Judges of the Bombay High Court, 'inter alia', considered the scope of the High Court's power of superintendence over inferior Courts under Section 107, Government of India Act, 1915. It was held:

"The rights of superintendence which the High Court has under Section 107, Govt. of India Act, 1915, include not only superintendence on administrative points, but superintendence on the judicial side too, and under its powers of superintendence the High Court can correct any error in a judgment of Court subject to its appellate jurisdiction....."

The exercise of a power of superintendence is not the same thing as the hearing of an appeal. The High Court has a discretion to revise or set aside any conviction under its powers of superintendence, but it must exercise its discretion on judicial grounds and only interfere if considerations of justice require it to do so."

85. In 'AIR 1940 Rang. 68, (F)' a Division Bench of the Rangoon High Court had occasion to consider the meaning of the expression "a Court subordinate to the High Court" within the meaning of Sub-section (1) of Section 2. At p. 70, the learned Judges observed thus:

"We have no doubt that the words, 'subordinate Court' in the Contempt of Courts Act were used in a 'wide sense' as including any Court over which the High Court has superintendence for the purposes of Section 85, Government of Burma Act, 1935 (corresponding to Section 224, Government of India Act, 1935), that is to say, all Courts subject), for the time being to its appellate jurisdiction."

86. Next, I may specifically refer to the provisions of the Land Revenue Act as well as of the U. P. Tenancy Act. The provisions of the Land Revenue Act make it clear that at least the order of an Assistant Collector, First Class, passed under Section 111 (1) (c) 'is appealable to the District Judge or the High Court' as the case may be. So far as the U. P. Tenancy Act (1939) is concerned, Section 243, read with Schedule 2, List I, makes it clear that Section 115, Civil P. C., is not to apply to cases under that Act; but that is so, simply because under Section 276 the Tenancy Act itself provides for the revisional jurisdiction of the High Court over a subordinate revenue Court, in an appropriate case, in which an appeal lies to the District Judge, but no appeal lies to the High Court.

87. In view of the above provisions, it seems to me clear that the revenue Court i.e., the Court of an Assistant Collector, First Class, is a Court 'subordinate to the High Court.' Consequently, it comes within the power possessed by the High Court to protect its subordinate Courts against unwarranted attacks upon the discharge of its judicial functions. As I have indicated above, in my opinion, it is not necessary that the subordinate Court for purposes of Section 2 (1), Contempt of Courts Act must be subordinate in all its activities to the High Court.

88. Lastly, I may once more refer to the case of -- 'State v. Brahma Prakash (Z7) (ubi supra)', decided by a Full Bench of this Court. In that case, a specific contention was raised before the Full Bench that a 'revenue officer' was not subordinate to the High Court and consequently contempt of his Court could not be punished under the Contempt of Courts Act. On this point, the Full Bench held: "Section 2, Contempt of Courts Act, when it speaks of Courts subordinate to the High Court, clearly, in our opinion, refers to judicial subordination. Judicial Magistrates' are Magistrates of the first class whose judgments come before Sessions Judges & the High Court in appeal & revision, & their Courts are, we 'think, clearly subordinate to the High Court within the meaning of Section 2, Contempt of Courts Act. Similarly, the Courts of Revenue Officers, many of whose judgments come before District Judges and the High Court in appeal and second appeal, are subordinate to the High Court for the purposes of Section 2"

89. In view of the above, it must be held that the High Court has jurisdiction under Section 2(1), Contempt of Courts Act to protect against unwarranted attacks all inferior Courts, including a revenue Court acting under the Land Revenue Act. In my judgment, therefore, the answer to the question referred to me must be in the affirmative i.e. that a Court of an Assistant Collector, first class, under the Land Revenue Act, is "subordinate to the High Court "for purposes of Section 2(1), Contempt of Courts Act (12 of 1928).

(Note.--When the case came up finally before the original Division Bench, Mushtaq Ahmad J.

passed the order. He held that the letter referred to in para. 40 was written by the opposite, party with a view that it should be filed in the Court of the S. D. O. to influence his mind in deciding the case, even though it was not actually filed by him but by Vidyarthi Das for whose benefit it had been written. His Lordship observed :

"It seems to us quite clear that the letter was not only intended to work up the mind of the S. D. O. but had at least a tendency to create that effect. As a matter of fact the intention underlying the language used is not so material.

In certain cases this may be quite irrelevant, the real question being the tendency of the writing to produce a certain effect. To answer the question whether this writing had that tendency one may only read its plain language. If the dispute referred to in the letter had an allusion to the case pending in the Court of the S. D. O., if the word 'niyay' used in the letter alluded to the desired justice to be obtained from the Court of the S. D. O., there can be no doubt that the letter was not only intended to have but also did actually have a tendency to influence the mind of the Magistrate. In view of these facts we are of opinion that the opposite party did commit an offence of contempt of Court by writing the letter in question". Consequently his Lordship was of the opinion that the ends of justice would be met if an award of sentence of Rs. 50/- only as fine on the opposite party is made.)