

19. Therefore, the petitions are **allowed**. Both the notices dated 07.10.2022 issued to the petitioner alleging deficiency in the stamp duty on the two sale-deeds executed in favour of the petitioner are set aside. Consequentially, the orders dated 24.01.2024 passed by the Additional District Magistrate (Finance and Revenue), District - Ambedkar Nagar in Case Nos.1226 of 2022 and 1228 of 2022, under Section 47-A of the Indian Stamp Act, 1899, as also the orders dated 26.07.2024 passed by the Additional Commissioner (Stamp), Ayodhya Division, Ayodhya in Case Nos.581 of 2024 and 579 of 2024 under Section 56 (1-A) of the Indian Stamp Act and the recovery certificates issued in furtherance of the aforesaid notices and orders, are also set aside.

20. As the proceedings have been set aside by this Court because of defect in notice, a liberty is granted to the opposite parties to issued fresh notices to the petitioner in accordance with law, keeping in view the observations made in this judgment.

**(2024) 10 ILRA 266**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: ALLAHABAD 03.10.2024**

## BEFORE

**THE HON'BLE DR. YOGENDRA KUMAR  
SRIVASTAVA, J.**

Writ-C No. 24737 of 2023

**Mahatam Sharma** ...Petitioner  
**Versus**  
**State of U.P. & Ors.** ...Respondents

**Counsel for the Petitioner:**  
Sri Manu Mishra

### Counsel for the Respondents:

C.S.C., Sri Munna Tiwari, Sri Sudhir Bharti,  
Sri Aniruddha Chaturvedi

**Civil Law – Land Revenue Act, 1996 - Sections 48 & 49 - The Uttar Pradesh Land Revenue (Survey and Record Operations) Rules, 1978 - Area under record or survey operation - An order passed by the Assistant Record Officer in an appeal under Rule 27(3) of the Survey Rules, 1978, against the order of the Survey Naib Tahsildar under Rule 26(1), can be challenged by filing a statutory revision under Section 219 of the Land Revenue Act before the Record Officer. Such an order of the Assistant Record Officer in an appeal under Rule 27(3) cannot be challenged in a revision before the Commissioner. In matters related to survey and record operations, the Commissioner has no role. The scheme of the Act with regard to revision of maps and records as contained under Chapter IV of the Land Revenue Act does not contemplate any control over the record operations by the Divisional Commissioner. Under Section 49, it is the Record Officer appointed by the State Government who is in charge of the record operations so long as the area is under the record or the survey operations upon notification having been issued under Section 48. (Para 28)**

**Disposed off. (E-5)**

(Delivered by Hon'ble Dr. Yogendra  
Kumar Srivastava, J.)

1. Heard Sri Manu Mishra, learned counsel for the petitioner, Sri Munna Tiwari, appearing along with Sri Aniruddha Chaturvedi, learned counsel appearing for the respondent Nos. 5 and 6 and Sri Abhishek Shukla, learned Additional Chief Standing Counsel appearing for the State respondents.

2. The present petition has been filed seeking quashing of order dated 26.08.2021/27.08.2021, passed by the Survey Nayab Tahsildar, the order dated 25.05.2022, passed by the Assistant Record Officer, and the order dated 02.06.2023, passed by the Additional Commissioner (Judicial) IInd, Gorakhpur Division, Gorakhpur.

3. The facts of the case, as pleaded in the writ petition, are being set out hereinbelow.

4. The property in dispute is described as an agricultural property being Khata No. 364, Gata No. 103 to 109, area measuring 0.92 hectares, situate in Village Uttarashot, Tehsil Sadar, District Gorakhpur.

5. It is stated that after the death of the original tenureholder, Smt. Maharaji, the name of the father of the petitioner, namely, Naresh, was recorded in the revenue records as 'Sirdar' on 29.03.1973.

6. Thereafter, pursuant to an order dated 26.08.2021, passed by the Survey Naib Tahsildar, the name of one Sambhu, the respondent No. 5, was mutated in the revenue records, on 27.08.2021.

7. In the meantime, the father of the petitioner, namely, Naresh, died and against the order dated 26.08.2021, passed by the Survey Naib Tahsildar, the petitioner preferred an appeal before the Assistant Record Officer, Gorakhpur, registered as Appeal No. 75 of 2021 (re-numbered as 1680) [Mahatam Vs. Sambhu], under Section 27(3) of the U.P. Land Revenue (Survey and Record Operations) Rules, 1978. The aforesaid appeal was dismissed by an order dated 25.05.2022.

8. Aggrieved with the aforesaid order dated 25.05.2022, the petitioner preferred a revision before the Commissioner, Gorakhpur Division, Gorakhpur, registered as Case No. 768 of 2022 [Mahatam Sharma Vs. Sabhu]. The revision was dismissed by order dated 02.06.2023, as being not maintainable.

9. Counsel for the petitioner has confined his challenge to the order passed by the revisional court on the question of maintainability of the revision.

10. Learned counsel has contended that the revisional court has erred in holding the revision to be not maintainable against the order passed by the Assistant Record Officer, under Rule 27(3) of the Rules 1978, whereas the said rule itself provides the remedy of revision, as contemplated under Section 219 of the U.P. Land Revenue Act, 19012.

11. Counsel for the respondents has refuted the aforesaid submission by pointing out that in matters relating to survey and record operations, the Commissioner has no role, and it is for this reason that the revisional authority has held the revision to be not maintainable before the court of Commissioner.

12. Counsel for the respondents, however, does not dispute that the order dated 25.05.2022, passed by the Assistant Record Officer, would be subject to the remedy of a statutory revision, under Section 219, though not before the Commissioner, but before the Record Officer.

13. In order to appreciate the rival contentions, the relevant provisions under

the Land Revenue Act, would be required to be referred.

14. Chapter IV of the Land Revenue Act relates to revision of maps and records, and it deals with survey and record operations. The record operations are to be notified by the State Government with the publication of a notification under Section 48, and upon the notification being issued, the area in question would be under survey and record operations, and all the powers regarding correction of revenue papers shall vest in the Record Officer or the Assistant Record Officer.

15. The provisions under Chapter IV of the Land Revenue Act relating to notification of Record Officers, appointment of Record Officers, powers of Record Officers, and other related provisions, which are relevant for the purposes of controversy involved in the present case, are being reproduced hereinbelow:

**“48. Notification of record operations. –**

If the State Government thinks that, in any district or other local area, a general or partial revision of the records or a resurvey, or both, should be made, it shall publish a notification to that effect.

**Effect of notification. –** And every such local area shall be held to be under record or survey operation or both, as the case may be, from the date of the notification until the issue of another notification declaring the operations to be closed therein.

**49. Record Officers. –** The State Government may appoint an officer,

hereinafter called the Record Officer, to be in charge of the record operations or the survey, or both, as the case may be, in any local area and as many Assistant Record Officers, as to it may seem fit, and such officers shall exercise all the powers conferred on them by this Act so long as such local area is under record or survey operations, as the case may be

**50. Powers of Records Officer as to erection of boundary marks. –**

When any local area is under survey operations, the Record Officer may issue a proclamation directing all Gaon Sabhas and bhumidhars to erect, within fifteen days, such boundary marks as he may think necessary to define the limits of the villages and fields; and in default of their compliance within the time specified in the proclamation, he may cause such boundary marks to be erected, and the Collector shall recover the cost of their erection from the Gaon Sabhas or bhumidhars concerned.

**51. Decision of disputes. –** In case of any dispute concerning any boundaries, the Record Officer shall decide such dispute in the manner prescribed in Section 41.

**52. Records to be prepared in re-survey. –** When any local area is under survey operations the Record Officer shall prepare for each village therein a map and field-book, which shall thereafter be maintained by the Collector as provided by Section 28, instead of the map and field-book previously existing.

**53. Preparation of new record-of-rights. –** Where any local area is under record operation, the Record Officer shall frame for each village therein the record specified in Section 32 and the record so

framed shall thereafter be maintained by the Collector, instead of the record previously maintained under Section 33.

**54. Undisputed entries and disposal of disputes regarding entries by Record Officer.** – (1) For revising the map and records under this chapter, the Record Officer shall, subject to the provisions hereinafter contained, cause to be carried out survey, map correction, field to field Partal and test and verification of current annual register in accordance with the procedure prescribed.

(2) After the test and verification of the current annual register in accordance with sub-section (1), the Naib-Tahsildar shall correct clerical mistakes and errors, if any, in such register, and shall cause to be issued to the concerned tenure-holder and other persons interested, notices containing relevant extracts from the current annual register and such other records as may be prescribed, showing their rights and liabilities in relation to land and mistakes and disputes discovered during the operations mentioned in the said sub-section.

(3) Any person to whom notice under sub-section (2) has been issued may, within twenty-one days of the receipt of notice, file before the Naib-Tahsildar objection in respect thereof disputing the correctness or nature of the entries in such records or extracts.

(4) Any person interested in the land may also file objection before the Naib-Tahsildar at any time before the dispute is settled in accordance with sub-section (5), or before the Assistant Record Officer, at any time before the objections

are decided in accordance with sub-section (6).

(5) The Naib-Tahsildar shall –

(a) where objections are filed in accordance with sub-section (3) or sub-section (4) after hearing the parties concerned; and

(b) in any other case after making such inquiry as he may deem necessary correct the mistake, and settle the dispute, by conciliation between the parties appearing before him, and pass orders on the basis of such conciliation.

(6) The record of all cases which cannot be disposed of by the Naib-Tahsildar by conciliation as required by sub-section (5), shall be forwarded to the Assistant Records Officer who shall dispose of the same, in accordance with the provisions of Sections 40, 41 or 43, as the case may be, and where the dispute involves a question of title, he shall decide the same after a summary inquiry.

(7) Where after the summary inquiry under sub-section (6), the Assistant Record Officer is satisfied that the land in dispute belongs to the State Government or a local authority, he shall cause the person in unauthorised occupation of such land to be evicted and may, for that purpose use or cause to be used such force as may be necessary.

(8) Every order of the Assistant Record Officer –

(a) made under sub-section (6) shall, subject to the provisions of Sections 210 and 219, be final;

(b) made under sub-section (7) shall subject to the result of any suit which the aggrieved person may file in any Court of competent jurisdiction, be final.

**55.** Particulars to be stated in the list of cultivators. – The register of persons cultivating or otherwise occupying land specified in Section 32 shall specify as to each tenure-holder the following particulars :-

(a) the class of tenure as determined by the Uttar Pradesh Zamindari and Land Reforms Act, 1950;

(b) the revenue or rent payable by the tenure-holder, and

(c) any other conditions of tenure which the State Government may by rules made under Section 234 require to be recorded.

Explanation. - For the purposes of this section the year for which the register is prepared shall be reckoned as a complete year.

56. [\* \* \*]

**57.** Presumption as to entries. – All entries in the record-of-rights prepared in accordance with the provisions of this Chapter shall be presumed to be true until the contrary is proved; and all decisions under this Chapter in cases of dispute shall, subject to the provisions of sub-section (3) of Section 40, be binding on all revenue courts in respect of the subject-matter of such disputes; but no such entry or decision shall affect the right of any person to claim and establish in the Civil Court any interest in land which requires to be recorded in the registers prescribed by Section 32.”

16. The Board of Revenue, Uttar Pradesh, with the previous sanction of the State Government, and in exercise of powers under Section 234 of the Land Revenue Act, read with Section 21 of the U.P. General Clauses Act, 1904, made the rules, namely, “The Uttar Pradesh Land Revenue (Survey and Record Operations) Rules, 1978”, notified by means of Notification dated June 21, 1978.

17. The provisions relating to disposal of mistakes and disputes in land records, as set out in Rules 23, 24, 25, 26 and 27, which are relevant for the purposes of present case, are being extracted below:

“24. (1) The Survey Lekhpal shall make necessary number of copies of the notices, containing relevant extracts in Survey Form-X Khatauni Slip in respect of all the holdings in the basic annual register, after the orders of the Survey Naib-Tahsildar mentioned in Rule 23 have been given effect to. The Survey Kanungo shall check all the notices and at least 25 percent of the notices shall also be checked by the Survey Naib-Tahsildar to ensure their accuracy.

(2) The notices together with the Khatauni slips shall be issued under the signatures of the Survey Naib-Tahsildar to the tenure-holders concerned and persons interested.

(3) The record of service of notice-cum-Khatauni Slip shall be maintained in the Khatauni Terij in Survey Form-XI.

(4) Notices in respect of land belonging to the Government Departments shall be sent to the Heads of the district offices. Notices in respect of land

belonging to or vested in the Gaon Sabha, or other local authority shall be sent to the pradhan of the Gaon Sabha or the Chairman of Local Authority as the case may be.

(5) Any tenure-holder or any other person aggrieved by any entry in any Khata may file an objection in writing giving the grounds of his objection to the Survey Naib-Tahsildar within twenty-one days of the service of notice.

(6) Office copies of the notices issued shall be kept on the common file for so long as they are not made part of separate files.

25. The objections received against the entries made in the Khatauni slip shall be entered in Misil-Band Register in Survey Form-XII.

26. (i) The Survey Naib-Tahsildar shall then proceed to make enquiries into all the disputes and claims (other than clerical mistakes) and also objections, if any, received in respect of entries made in the Khatauni slips in the village itself. In deciding disputes on the basis of conciliation under Section 54, he shall record the terms of conciliation in the presence of at least two members of the Land Management Committee in the relevant column of the list of mistakes and disputes in Survey Form - VI (Part II). These terms shall be read over to parties concerned and their signatures or thumb-impressions obtained. The members of the Land Management Committee present shall also sign the terms of conciliation. The Survey Naib-Tahsildar thereafter shall record orders in the relevant column of Survey Form VI deciding the disputes in terms of conciliation specifying the precise

entries to be made in records. No ex party order or order in default or order in respect of land belonging to the State Government or vested in Gaon Sabha shall be passed by the Survey Naib-Tahsildar.

(2) The cases that cannot be disposed of by the Survey Naib-Tahsildar in terms of conciliation in accordance with the provision of sub rule (1) shall be referred by him to the Assistant Record Officer for disposal. While doing so the Survey Naib-Tahsildar may fix a date and place for the disposal of the cases by the Assistant Record Officer and communicate the same to the parties concerned before him and issue notices to the parties not so present.

27. (1) The case received from the Survey Naib-Tahsildar shall be entered in the Misal Band Register, in Survey Form XII in the office of the Assistant Record Officer.

(2) On the date fixed under sub-rule (2) of rule 26 or on subsequent date fixed for the purpose, the Assistant Record Officer shall hear the parties, and decide the objections.

(3) Any person aggrieved by the order of Survey Naib-Tahsildar made under sub-rule (1) of rule 26 may file, within twenty-one days from the date of order, an appeal before the Assistant Record Officer whose order shall subject to the provisions of Section 219 be final.

(4) Any person aggrieved by the order of the Assistant Record Officer under sub-rule (2) of Rule 27 may file within thirty days from the date of order, an appeal before the Record Officer under Section 210 of the Act.”

18. For the purpose of revision of maps and records, in respect of an area which has been notified, the Record Officer has been enjoined with the responsibility to carry out survey, map correction, field to field partial, and test and verification of current annual register in accordance with the procedure prescribed, as per terms of sub-section (1) of Section 54 of the Land Revenue Act. The Naib Tahsildar, is thereafter, entrusted with the duty to correct clerical mistakes and errors in the current annual register with due notice to the concerned tenure-holders and other persons interested. Upon objections being filed, the parties concerned are to be given opportunity of hearing, and after making such inquiry, as may be necessary, the Naib Tahsildar, is to correct the mistakes and settle the disputes by conciliation between the parties, and pass orders on the basis of such conciliation.

19. The records of conciliation are to be forwarded to the Assistant Record Officer, who is to dispose of the same, in accordance with the provisions of Sections 40, 41 or 43, and where the dispute involves a question of title, he is to decide the same after summary inquiry.

20. Every such order of the Record Officer, as per terms of sub-section (8) of Section 54, shall, subject to the provisions of Sections 210 and 219 is to be final.

21. In terms of Rule 26 of the Survey Rules, the Survey Naib Tahsildar is to make inquiries into all the disputes and claims and also objections if any received in respect of entries made in the Khatauni slips, and thereafter is to record orders in the relevant column of the Survey Form - VI deciding the dispute in terms of

conciliation specifying the precise entries to be made in the records.

22. As per the terms of sub-rule (3) of Rule 27, any person aggrieved by the order of the Survey Naib Tahsildar made under sub-rule (1) of Rule 26 may file within twenty-one days from the date of order, an appeal before the Assistant Record Officer whose order shall subject to the provisions of the Section 219 be final.

23. The aforesaid scheme as set out in Survey Rules, provides that the order to be passed by the Survey Naib Tahsildar in regard to the disputes and claims in respect of the entries made in the Khatauni, would be subject to an appeal before the Assistant Record Officer, and the said order shall subject to the provisions of Section 219, be final.

24. Section 219 of the Land Revenue Act, confers the power of revision upon the Board or the Commissioner or the Additional Commissioner or the Collector or the Record Officer or the Settlement Officer, to call for the record of any case decided or proceeding held by any subordinate revenue court in which no appeal lies or where an appeal lies but has not been preferred.

25. The provision relating to appointment of Commissioners of Divisions is contained under Section 12 of the Land Revenue Act, and in terms thereof the State Government is to appoint in each division a Commissioner, who shall within his division exercise the powers and discharge the duties conferred and imposed on a Commissioner under the Act, or under any other law for the time being in force and who shall exercise authority over all the revenue officers in his division.

26. The subject matter relating to revision of maps and records has been placed under a separate chapter, namely, Chapter IV of the Land Revenue Act. Upon notification being published by the State Government under Section 48, in respect of any area which is to be brought under record operations, the State Government may appoint a Record Officer to be in charge of the record operations or the survey for the area and also Assistant Record Officers, who shall exercise all the powers conferred on them by the Act so long as the said area is under record or survey operations.

27. The scheme of the Act with regard to revision of maps and records as contained under Chapter IV of the Land Revenue Act, does not contemplate any control over the record operations by the Divisional Commissioner. Under Section 49, it is the Record Officer appointed by the State Government who is in charge of the record operations so long as the area is under the record or the survey operations upon notification having been issued under Section 48.

28. The order passed by the Assistant Record Officer in an appeal under sub-rule (3) of Rule 27 of the Survey Rules, 1978, against an order of the Survey Naib Tahsildar under sub-rule (1) of Rule 26, would therefore be subject to a revision to be filed before the Record Officer, and not the Commissioner, under the revisional jurisdiction conferred under Section 219 of the Land Revenue Act.

29. The order dated 02.06.2023 passed by the Additional Commissioner, holding that a revision against an order passed by the Assistant Record Officer under Rule 27(3) of the Survey Rules,

would not be entertainable, before the court of Commissioner, therefore cannot be said to suffer from any error or illegality so as to warrant interference.

30. Counsel appearing for the petitioner has not been able to dispute the aforesaid legal position.

31. Accordingly, learned counsel submits that he does not wish to press the petition and that the petitioner would seek redressal of his grievances against the order dated 25.05.2022, passed by the Assistant Record Officer, by availing the remedy of a statutory revision before the Record Officer.

32. The petition stands **disposed of** accordingly.

33. Office to return the certified copy(ies) of the order(s) to the counsel for the petitioner after retaining photostat copy(ies) of the same.

-----  
**(2024) 10 ILRA 273**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: LUCKNOW 15.10.2024**

**BEFORE**

**THE HON'BLE SUBHASH VIDYARTHI, J.**

Writ-C No. 1001034 of 2015

**Garden View Owners Welfare Assc. Thru  
Secy. & Anr. ...Petitioners**

**Versus**

**The Dy. Registrar Firms Societies & Chits  
Lko. & Ors. ...Respondents**

**Counsel for the Petitioners:**  
Ankit Srivastava

**Counsel for the Respondents:**