

ing that only cow's milk is being used in the shop. In view of this contradiction in the statements of PW1 Amar Nath Gupta and PW2 Shri D. D. Setia, it is difficult to believe that PW1 Shri A. N. Gupta did not know the said difference. It looks that the Government Food Inspector is trying to evade the correct answer. May be he did it to support his complaint and did not want that the petitioner should get any benefit of the facts proved on the file. Normally when the layer of the cream is on the top of the milk and it is not properly stirred, the sample taken may indicate deficiency in milk solids not fat. In this case deficiency in milk solids not fat is 11 per cent and this deficiency seems to be the result of the milk not having been properly stirred.

(8) With the observations, this criminal revision is accepted, conviction and sentence awarded to the petitioner are set aside and the petitioner is acquitted of the charge. Fine, paid by the petitioner, be refunded to him.

S.C.K.

*Before V. Ramaswami, C.J. and G. R. Majithia, J.*

R. D. GULHATI,—Appellant.

*versus*

PARBHA BATRA,—Respondent.

*Letters Patent Appeal No. 261 of 1989.*

May 9, 1989.

*Letter Patent, 1919—Clause X—Interim order in civil revision—  
Letters Patent Appeal against such order—Maintainability of the  
appeal.*

*Held, that the order sought to be appealed against shall also be treated as one made in exercise of revisional jurisdiction. As against the order made in the revisional jurisdiction, no appeal lies under Clause X of the Letters Patent. The appeal against interim order is accordingly dismissed as being not maintainable.*

(Para. 1).

*Letters Patent Appeal Under Clause X of the Letters Patent  
against the order dated 14th October, 1988 passed by Hon'ble*

Commissioner of Income Tax v. Mr. Justice P. C. Jain  
(V. Ramaswami, C.J.)

*Mr. Justice M. S. Liberhan in Civil Misc. No. 5085-CII of 1988 and in Civil Revision No. 138 of 1988.  
Civil Misc. No. 4164 of 1989.*

*Petition under section 151 C.P.C., praying that the filing of the judgments of the learned Rent Controller and learned Appellate Authority may be dispensed with at this stage.  
Civil Misc. No. 4165 of 1989.*

*Application under section 151 C.P.C. praying that the operation of the impugned order may kindly be stayed during the pendency of the appeal in the Hon'ble Court.*

H. N. Mehtani, Advocate, for the appellant.

ORDER

(1) The appeal which is sought to be filed is against the order made in C.M. No. 5085 of 1988 in C.R. No. 138 of 1988. Therefore, the order made by the learned Judge partakes the nature of the revisional jurisdiction which can be exercised by him in disposing of C.R. No. 138 of 1988. The order cannot stand *de hors* the civil revision petition. In the circumstances, the order sought to be appealed against shall also be treated as one made in exercise of revisional jurisdiction. As against the order made in revisional jurisdiction, no appeal lies under clause X of the letters patent. This appeal is accordingly dismissed as being not maintainable.

S.C.K.

*Before V. Ramaswami, C.J. and G. R. Majithia, J.*

COMMISSIONER OF INCOME TAX,—Applicant.

*versus*

MR. JUSTICE P. C. JAIN,—Respondent.

*Income Tax Reference No. 51 of 1978.*

June 1, 1989.

*Income Tax Act (XLIII of 1961)—Ss. 22, 23 and 24—Income from house property—Annual letting value—Determination of such value—Deductions permissible while determining such value.*