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ITEM NO.10

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petitions for Special Leave to Appeal (Civil) Nos.14890-14891/2009  
(From the judgment and order dated 26/05/2009 in SA Nos.344 and 345 of  
2009 of The HIGH COURT OF JUDICATURE AT ALLAHABAD, BENCH AT LUCKNOW)

KOTAK MAHINDRA BANK LTD.

Petitioner(s)

VERSUS

STATE OF U.P.& ORS.

Respondent(s)

(With appln(s) for permission to file additional documents and with prayer  
for interim relief and office report)

(FOR FINAL DISPOSAL)

Date: 29/01/2013 These Petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

HON'BLE MR. JUSTICE M.Y. EQBAL

For Petitioner(s)

Mr. Rakesh Dwivedi, Sr. Adv.

Mr. P.S. Narsimha, Sr. Adv.

Mr. Sandeep Singhi, Adv.

Mr. Mahesh Agarwal, Adv.

Mr. E.C. Agrawala, Adv.

Mr. Nakul Mohta, Adv.

Ms. Parul Shukla, Adv.

For Respondent(s)

Mr. M.N. Krishnamani, Sr. Adv.

Mr. Vinay Garg, Adv.

Mr. Tanmaya Agarwal, Adv.

for Mr. Gunnam Venkateswara Rao, Adv.(N/P)

UPON hearing counsel the Court made the following

O R D E R

We have heard learned Senior Counsel for the parties and  
perused the record.

We are satisfied that the order passed under Section 33 of  
the Indian Stamp Act, 1899 (for short "the Act") is an  
appellable order under Section 56(1) of the Act. Although Mr.  
Rakesh Dwivedi, learned Senior Counsel for the petitioner, has  
raised a number of issues with

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regard to the jurisdiction of the Collector in adopting a method  
unknown under the Act for clarifying any doubt that the  
Collector may entertain, we are not inclined to examine the same  
on merits as the issue will have to be decided by the appellate  
authority. But it would be appropriate to note that the  
submissions made by Mr. Dwivedi, particularly touching and  
concerning the procedure to be adopted under Section 31 of the  
Act, would need to be examined by the appellate authority as the  
same cannot be brushed aside. At the same time, we are of the  
opinion that the High Court did not commit any error in  
relegating the petitioner to the alternative remedy of appeal,  
as the appellate authority is duty bound to consider all the

issues raised by the petitioner. In a matter such as this, the appellate authority is expected to pass a detailed speaking order, as it is exercising quasi judicial powers.

We are also informed that in pursuance of the orders of the High Court, the petitioner has already filed an appeal before the appellate authority. Since the matter involves recovery of dues by a financial institution, it would be in the interest of all concerned that the appeal be decided in as short a period as possible. We, therefore, direct the appellate authority to decide the appeal within a period of three months from the date of receipt of a certified copy of this order.

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The special leave petitions are disposed of with the aforementioned observations and directions.

| (VINOD LAKHINA)  
| COURT MASTER

| | (A.S. BISHT)  
| | COURT MASTER

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