

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

**CMP.M No. 584 of 2026 &
LPA No. 547 of 2026
Decided on : 23.09.2026**

Raj Kumar and others

...Applicants/Appellants

Versus

Bhani Ram

...Non-applicant/Respondent

Coram

**The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.
The Hon'ble Mr. Justice Bipin C. Negi, Judge.**

Whether approved for reporting?¹

**For the applicants/
appellants** : Mr. Mehar Chand Jamwal,
Advocate.

G.S. Sandhawalia, Chief Justice (Oral)

CMP.M No. 584 of 2026

Keeping in view the averments made in the application, duly supported by an affidavit of one of the applicants, delay of 204 days in filing the appeal is condoned.

2. The application stands disposed of accordingly.

LPA No. 547 of 2026

3. The present Letters Patent Appeal is directed against the judgment passed by the learned Single Judge in **CMPMO No. 725 of 2024**, titled **Bhani Ram Vs. Raj Kumar and others**, decided on 13.08.2025, who, while entertaining petition

¹ Whether reporters of the local papers may be allowed to see the judgment?

under Article 227 of the Constitution of India, had reversed the order of the Appellate Court, which had set aside the status quo order passed by the learned Trial Court, under Order 39, Rules 1 and 2 of the Civil Procedure Code and came to the conclusion that if any permanent construction was carried out over the said area by the present appellants/defendants. Thus, it was held that it would have caused irreparable loss as far as the cause of the plaintiff was concerned and maintenance of status quo would not hamper the interest of either of the parties. Further, it was held that in case, the Civil Court came to the conclusion that there was no merit in the Civil Suit, the plaintiff can be levied with heavy cost.

4. On the question of maintainability, counsel for the appellants has referred to Section 108 of the Civil Procedure Code, which talks about filing of the appeal from appellate decree.

5. As noticed, the order was passed by the learned Single Judge while exercising its jurisdiction under Article 227 of the Constitution of India. In this regard, we have already held that in such cases an appeal would not lie.

6. Reference can be made to the judgment passed by this Court in ***LPA No. 826 of 2025***, titled ***Nitin Thakur Vs. Joint Registrar (Credit) Co-operative Societies and others***, decided

on **06.04.2026**. The relevant paras of the said judgment, read as under:-

“14. Further, the Letters Patent Appeal would also not lie against the order passed under Article 227 of the Constitution of India and the Letters Patent Appeal would lie only against the order passed in petitions filed under Article 226 of the Constitution of India.

15. We are of the considered opinion that in view of the settled principle of law, an intra-Court appeal against an order passed under Article 227 is not maintainable.

16. Reliance can be placed upon the judgment of the Apex Court in **Jogendrasinhji Vijaysinghji versus State of Gujarat and Others, (2015) 9 SCC 1**, wherein the issue in question was whether an appeal would be maintainable against an order passed by a Civil Judge under Article 227 of the Constitution of India. The Apex Court has held that it is the obligation of the Division Bench to discern and decide whether the order passed by the learned Single judge was in exercise of jurisdiction under Article 226 or Article 227 of the Constitution or both and resultantly, came to the conclusion that when exercise of jurisdiction under Article 227 of the Constitution has been done and in the light of pronouncement in **Radhey Shyam versus Chhabi Nath, (2015) 5 SCC 423**, by a three Judge Bench, a Letters Patent Appeal would not be maintainable, and the remedy would lie before the Apex Court.

17. A similar view was taken by the three-Judge Bench of the Apex Court in **Ram Kishan Fauji versus State of Haryana and others, (2017) 5 SCC 533**, which would go on to show that against an order challenged under Article 227 of the Constitution, no intra-Court appeal would lie.

18. A similar view has also been taken by another three-Judge Bench of Apex Court in **Life Insurance Corporation of India versus Nandini J. Shah and Others, (2018) 15 SCC 356**. It also held to the same effect while placing reliance upon the judgment in **Jogendrasinhji Vijaysinghji case (supra)**, that there

is difference in exercise of jurisdiction under Articles 226 & 227 of the Constitution of India and writ cannot be issued against an order passed by a Civil Court and, therefore, no Letters Patent Appeal would be maintainable, in such cases. The effect and nature of the impugned order are crucial in determining maintainability, and in that case as well, the Supreme Court held that the Letters Patent Appeal was not maintainable.

19. A similar observation was made by us in **LPA No.122 of 2008, titled Mehar Singh versus State of Himachal Pradesh and others**, decided on 24.03.2021, wherein the impugned orders had been challenged by invoking both Articles 226 and 227 of the Constitution of India. It was held that power under Article 227 is intended to be used for the purpose of keeping Subordinate Courts and Tribunals within the bounds of their authority and not for correcting mere errors and no appeal would lie against the order of the learned Single Judge passed in supervisory power under Article 227 of the Constitution and if the judgment under appeal falls squarely within the four corners of Article 227, it goes without saying that intra-Court appeal from such judgment would not be maintainable.

20. It is a matter of record itself that the petition has been filed under Article 227 of the Constitution of India and therefore, the appellant having chosen to file such a petition now cannot pretend to wriggle out.

21. In such circumstances, we also do not find that present petition is maintainable. Resultantly, if the said exercise is permitted, it would amount to every order being passed by the learned Single Judge under Article 227 of the Constitution or while exercising the jurisdiction under Section 115 of the Civil Procedure Code to be challenged by way of intra-Court Letters Patent Appeal, which has been held to be not permissible.

22. Accordingly, the present Letters Patent Appeal is dismissed as not maintainable.

23. Pending miscellaneous application(s), if any, shall also stand disposed of.”

7. In similar circumstances, the Coordinate Bench also dismissed **LPA No. 12 of 2018**, titled ***Ashok Kumar Vs. State of Himachal Pradesh and others***, on 01.07.2024, being not maintainable, by granting liberty to the appellant to avail other remedy, in accordance with law.

8. Accordingly, the present appeal is dismissed, with the aforesaid liberty. Pending miscellaneous application(s), if any, also stands disposed of accordingly.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

September 23, 2026
(Shivank Thakur)