

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.909 of 2005

IN

Civil Writ Jurisdiction Case No. 9936 of 2004

Smt.Pritama Kaur, wife of Late Sardar Mauleshwar Prasad Singh, Life Trustee, Mata Gujri Memorial Medical College and Lions Seva Kendra Hospital, resident of village Uchla, P.O. – Guru Bazar, P.S. – Barari, District – Katihar. At present residing at H.I.G. Flat No. 7/25 near T.V. Tower, Kankarbagh, Patna. Appellant

Versus

1. Jugal Kishore Toshniwal, son of Sri Bhanwar Lal Toshniwal, so called Secretary, Mata Gujri Memorial Medical College and Lions Seva Kendra Hospital, Kishanganj, P.S. Kishanganj, in the District of Kishanganj.

2. the State of Bihar

.... Respondents

With

Letters Patent Appeal No. 858 of 2005

IN

Civil Writ Jurisdiction Case No. 9936 of 2004

Sardar Kartar Singh @ Kartar Singh, son of Late Mauleshwar Prasad Singh, Life Member/Managing Trustee, Mata Gujri Memorial Medical College and Lions Seva Kendra Hospital, P.S. Kishanganj, District – Kishanganj. Appellant

Versus

1. Jugal Kishore Tosniwal son of Sri Bhanwar Lal Toshniwal, so called Secretary, Mata Gujri Memorial Medical College and Lions Seva Kendra Hospital, Kishanganj, P.S. Kishanganj, in the District of Kishanganj.

2. The State of Bihar.

3. Smt. Pritima Kaur, wife of Late Sardar Mauleshwar Prasad Singh, Life Trustee, Mata Gujri Memorial Medical College and Lions Seva Kendra Hospital, resident of village Uchla, P.O. – Guru Bazar, P.S. – Barari, District – Katihar. At present residing at H.I.G. Flat No. 25 Block No. 7 Sector-IV Bahadurpur Housing Colony, T.V. Tower, Kankarbagh, Patna. Respondents

Appearance :

For the Appellants

:

Mr. Bishnu Kant Dubey, Advocate

Mr. Panchu Ram, Advocate

Mr. Ranjit Kumar, Advocate

Mr. Sanjeev Kumar, Advocate

For the Respondents:

Mr. S.S. Dvivedi, Sr. Advocate

Mr. Ranjan Kumar Dubey, Advocate

Mr. Rakesh Chandra, Advocate

Mrs. Sangeeta Sharma Advocate

Mr. Parth Gaurav, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 09-10-2015

The present appeals under Clause 10 of Patna High Court Letters Patent is preferred against the judgment and order dated 19.07.2005 passed in C.W.J.C. No. 9936/2004 by learned Single Judge of this Court exercising jurisdiction under Article 227 of the Constitution.

The primary objection as to maintainability of these appeals was taken by Sri Shashi Shekhar Dvivedi, learned Senior Counsel opposing the appeals. The submission would be that the District Judge, Katihar having passed an order on an application made by the present appellant in terms of Section 34 of the Indian Trust Act, 1882, and the learned District Judge having passed an order therein being the Principal Civil Judge of original civil jurisdiction that would be an order of the civil court and was amenable to the writ jurisdiction of this Court under Article 227 of the Constitution.

The learned Single Judge also took the same view and exercising constitutional jurisdiction of superintendence under Article 227 of the Constitution disposed of the writ petition with certain directions.

Clause 10 the of Patna High Court Letters Patent provides for an appeal to the High Court from an order passed in the original appellate jurisdiction of the High Court and no other order. By series of judgments of this Court and the Apex Court, it is a settled law that from an order passed under Article 227 of the Constitution, no intra court appeal lies, muchless in terms of Letters Patent. The most recent being judgment of the Apex Court in the case of **Sh. Jogendrasinhji Vijaysinghji vs. State of Gujarat & Ors.**, since reported in **2015(3) PLJR 453(SC)**.

In that view of the matter, both these appeals are not maintainable, and are dismissed as such.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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