

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

LETTER PATENT APPEAL NO. 4 OF 2012
WITH CA/85/2012 IN LPA/4/2012 WITH LPA/5/2014 IN CP/131/2010
WITH CA/4746/2011 IN LPA/5/2014

DNYANOBA SITARAM MUNDHE
VERSUS
PRAKASH VITTHALRAO MUNDHE AND ORS

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Advocate for Appellant : Mr. V. D. Salunke
Advocate for Respondent No.1 : Mr. A.V. Patil
AGP for Respondent No.2: Mr. K.J. Ghute Patil
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**CORAM : R. M. BORDE AND
V. K. JADHAV, JJ.**

DATED : 24th MARCH, 2015

P.C. :-

1. In Letters Patent Appeal No. 5 of 2014, the order passed by learned Single Judge dated 22.12.2010 directing the appellant herein/management to pay sum of Rs.75,000/- to the respondent and disposing of contempt application accordingly is a matter of challenge. The contempt application was presented on account of failure to abide by the order passed by the Division Bench on 4.2.2010 whereby respondent No.2/ the Director of Arts was directed to treat the writ petition as representation and to pass appropriate orders within a period of six weeks from the date of the order. During pendency of contempt application, it is the case of the appellant that a sum of Rs.1,01,991/- has been paid to the respondent employee. It is observed by the

learned Single Judge while disposing of contempt application that though the respondents have disputed about entitlement of the petitioner for sum of Rs.3,20,750/-, without prejudice to the rights of management, it was directed to make deposit of Rs.75,000/- within 45 days. Both the parties were directed to appear before respondent No.2/ the Director of Arts on 6.1.2011.

2. As a result of non compliance of order passed by the learned Single Judge in contempt application No. 131 of 2010, another contempt application bearing No. 118 of 2011, was moved by the employee/respondent and while entertaining the contempt application, the contempt court directed the appellant herein to deposit a sum of Rs.1,20,000/- before the date prescribed in the matter i.e. on 13.1.2012. The order passed by the learned Single Judge issuing directions, as referred to above on 16.12.2011, is the subject matter of Letters Patent Appeal No. 4 of 2012.

3. We have heard respective counsel appearing for the parties. In our opinion, without entering into the merits of controversy, ends of justice would be met if the learned contempt Court dealing with contempt proceedings is requested to deal with the contempt application and render decision on its own merits. The ends of justice would also be met in directing suspension of the order passed on 16.12.2011, in contempt application No. 118 of 2011 till decision of

contempt application on its own merits. In view of the subsequent developments i.e. presentation of contempt application No. 118 of 2011 by the employee and the order dated 16.12.2011, it is desirable that the contempt proceeding bearing No. 131 of 2010 shall also be restored and shall be decided on its own merits.

4. In view of the above, the order disposing of contempt application No. 131 of 2011, passed by the learned Single Judge on 22.12.2010 is quashed and set aside and those contempt proceedings shall stand restored to its original number. The Court dealing with contempt application is requested to deal with the proceeding in accordance with the provisions of law and record decision, as expeditiously as possible, preferably within two months from today. The parties shall have liberty to move the Court for prescribing the date of hearing in contempt applications.

5. Letters Patent Appeal No. 5 of 2014 is allowed in the above terms. Letters Patent Appeal No. 4 of 2012 shall stand disposed of in view of disposal of Letters Patent Appeal No. 5 of 2014. There shall be no order as to costs.

6. All pending civil applications stand disposed of accordingly.

(V. K. JADHAV, J.)

(R. M. BORDE, J.)