

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1986 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 9732 of 2016**

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Mangal Prasad @ Mangal Prasad Singh, son of late Shree Prasad, resident of village Paparнауsa, P.S. Noor Sarai, P.O. Jagdishpur Tiary, District Nalanda, present resident at Goriyatoli, Jamal Road, Patna- 800 001.

.... Appellant/s

Versus

Smt. Manju Devi, wife of Shri Mangal Prasad, daughter of Shri Sriram, resident of Indira Bhawan, behind Durga Mata Mandir, near CDA office, Rajendra Path, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sarvendra Kumar Verma, Advocate
Mr. Jai Vardhan Narayan, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 16-12-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 6th September, 2016 whereby, the appellant was directed to pay maintenance of Rs.7,000/- per month by the Court of Principal Judge, Family Court, Patna.

The order passed by the Civil Court is in a proceeding under Article 227 of the Constitution of India and, thus, the Letters Patent Appeal is not maintainable. Reference may be made to a judgment of the Hon'ble Supreme Court in the case of Jogendrasinhji



Vijaysinghji v. State of Gujarat & Ors. reported as (2015) 9 SCC 1

wherein it has been held that an order passed by the learned Single Judge in a proceeding arising out of an order passed by the Civil Court is not amenable to intra court appeal as such order was passed under Article 227 of the Constitution of India and no Letters Patent Appeal against such order is contemplated. It was held to the following effect:-

“18. The aforesaid authoritative pronouncement makes it clear as day that an order passed by a civil court can only be assailed under Article 227 of the Constitution of India and the parameters of challenge have been clearly laid down by this Court in series of decisions which have been referred to by a three-Judge Bench in Radhey Shyam; (2015) 5 SCC 423, which is a binding precedent. Needless to emphasise that once it is exclusively assailable under Article 227 of the Constitution of India, no intra-court appeal is maintainable.”

In view of the aforesaid fact, the present Letters Patent Appeal is dismissed as not maintainable.

(Hemant Gupta, ACJ)

(Arvind Srivastava, J)

Sunil

AFR/NAFR	N. A. F. R.
CAV DATE	N. A.
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