

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.374 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 13331 of 2010
Arising out of
Interlocutory Application No. 1759 of 2015

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Md. Anwar, S/o Late Safi Ahmad, Safi Shoe Stores, Pupri Janakpur Road, P.S.
Pupri, District Sitamarhi.

.... Appellant/s

Versus

Bajrang Prasad Jalan, S/o Late Gauri Shankar Jalan, Resident of Mohalla Main
Road, Pupri Janakpur Road, P.S. Pupri, District Sitamarhi.

.... Respondent/s

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Appearance :

For the Appellant/s : None

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 09-05-2016

Re.: Interlocutory Application No. 1759 of 2015

The application is for condonation of delay of 123 days
in filing of the appeal.

For the reasons mentioned in the application, we find that
sufficient cause is made out for condonation of delay. Consequently,
the delay of 123 days in filing of the appeal is condoned.

Interlocutory Application stands disposed of.

Re.: Letters Patent Appeal No. 374 of 2015

The challenge in the present Letters Patent Appeal is to an
order dated 09.09.2014 passed by the learned single Bench in CWJC No.

13331 of 2010. The challenge before the learned single Bench was to an order dated 03.05.2010 passed by the Civil Court, whereby it has not accepted the written statement filed by the present appellant.

In view of the aforesaid fact, the order passed by the learned single Bench is an order passed in a proceeding under Article 227 of the Constitution of India and such order is not appealable. Reference may be made to a judgment of the Hon'ble Supreme Court in the case of ***Jogendrasinhji Vijaysinghji v. State of Gujarat*** reported as **(2015) 9 SCC 1**. The Court held as under:-

“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, the Letters Patent Appeal is dismissed as not maintainable.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Sujit

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