

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1348 of 2013
Arising out of
Civil Writ Jurisdiction Case No. 14203 of 2003**

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Bharat Roadways through its Manager Dina Nath Singh, S/o Late Faquir Singh,
Resident of At- Rajendra Path, Police Station- Gandhi Maidan, District- Patna.

.... Appellant/s

Versus

1. The House Controller, Sadar, Patna.
2. The Collector, Patna.
3. The Commissioner, Patna Division, Patna.
4. The State of Bihar.
5. Anup Agrawal, S/o Late Narayan Prasad Agrawal, Resident of Madhu Kunj,
Rajendra Patha, Police Station Gandhi Maidan, District- Patna.
6. Arun Agrawal, S/o Late Narayan Prasad Agrawal, Resident of Madhu Kunj,
Rajendra Patha, Police Station Gandhi Maidan, District- Patna.
7. Renu Sinha, W/o Shri Pravin Sinha, Resident of Road No. 10, Rajendra Nagar,
District- Patna.
8. Madhu Goenka, W/o Shri Raj Kumar Goenka, Resident of 5-B, Basera 42A,
Ballyganj, Circular Road, Kolkata- 700019
9. Nilu Agrawal, W/o Shri Raman Kundra, Resident of Flat No. 15, Galaxy
Apartment, New Patliputra Colony, Patna- 800013, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : None

For the Respondent/s :

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 13-01-2017**



The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 23rd of August, 2013 in C.W.J.C. No. 14203 of 2003 whereby, the challenge to the order passed by the learned Sub Judge-I, Patna, whereby an ex parte order of stay was granted, was set aside.

2. The order passed by the Civil Court can be challenged in a proceeding only under Article 227 of the Constitution of India before this Court and that no Letters Patent Appeal is maintainable against the order passed by the Court in exercise of the jurisdiction under Article 227 of the Constitution of India.

3. The Hon'ble Supreme Court in the case reported as Jogendrasinhji Vijaysinghji v. State of Gujarat & Ors., (2015) 9 SCC 1 has 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.”

4. In view of such order, we find that the present Letters Patent Appeal is not maintainable and the same is dismissed. It shall be open to the appellant to avail such other remedy as is available to the appellant in accordance with law.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

P.K.P.

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