

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**LETTERS PATENT APPEAL NO.212 OF 2013
IN
WRIT PETITION NO.4827 OF 2012**

Sumatibai Mahadev Patil & Ors. ... Appellants
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.173 OF 2013
IN
WRIT PETITION NO.6163 OF 2012**

Ganpat Hira Mhatre ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.193 OF 2013
IN
WRIT PETITION NO.6155 OF 2012**

Kisan Rajaram Dhanawade ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.194 OF 2013
IN
WRIT PETITION NO.6164 OF 2012**

Haridas Jayram Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.195 OF 2013
IN**

WRIT PETITION NO.6167 OF 2012

Bhimrao Damodar Khadse ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.196 OF 2013
IN
WRIT PETITION NO.6132 OF 2012**

Daulatram G. Thakur ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.197 OF 2013
IN
WRIT PETITION NO.4814 OF 2012**

Ramesh Krishna Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.198 OF 2013
IN
WRIT PETITION NO.4812 OF 2012**

Liladhar Kisan Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.199 OF 2013
IN
WRIT PETITION NO.6148 OF 2012**

Naresh Vasant Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.200 OF 2013
IN
WRIT PETITION NO.4830 OF 2012**

Krishna Harishchandra Patil	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.201 OF 2013
IN
WRIT PETITION NO.6143 OF 2012**

Pandurang Kabir Mhatre	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.202 OF 2013
IN
WRIT PETITION NO.6159 OF 2012**

Chandrakant Raghunath Patil	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.203 OF 2013
IN
WRIT PETITION NO.6139 OF 2012**

Sudam Rajaram Patil	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.204 OF 2013
IN
WRIT PETITION NO.4822 OF 2012**

Bijendra Satbir Khairalia ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.205 OF 2013
IN
WRIT PETITION NO.4810 OF 2012**

Gajanan Gangaram Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.206 OF 2013
IN
WRIT PETITION NO.4823 OF 2012**

Vishwanath Babu Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.207 OF 2013
IN
WRIT PETITION NO.4820 OF 2012**

Meghnath Krishna Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.208 OF 2013
IN
WRIT PETITION NO.6136 OF 2012**

Chandrakant Kashinath Mhatre ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

WITH

**LETTERS PATENT APPEAL NO.209 OF 2013
IN
WRIT PETITION NO.6160 OF 2012**

Navnath Kashinath Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.210 OF 2013
IN
WRIT PETITION NO.6133 OF 2012**

Dinanath Dashrath Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.211 OF 2013
IN
WRIT PETITION NO.6150 OF 2012**

Rambhau Shankar Shinde ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.213 OF 2013
IN
WRIT PETITION NO.4824 OF 2012**

Suresh Babu Madhavi ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.214 OF 2013
IN
WRIT PETITION NO.6162 OF 2012**

Krishna Narayan Patil ... Appellant

versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.215 OF 2013
IN
WRIT PETITION NO.6149 OF 2012**

Sanjay Gunaji Mhatre ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.216 OF 2013
IN
WRIT PETITION NO.6140 OF 2012**

Jaywant Harishchandra Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.217 OF 2013
IN
WRIT PETITION NO.4813 OF 2012**

Vasudev Kaluram Bhoir ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.218 OF 2013
IN
WRIT PETITION NO.6134 OF 2012**

Shashikant Jayram Rankar ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.219 OF 2013**

**IN
WRIT PETITION NO.6150 OF 2012**

Gajanan Posha Mhatre	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.220 OF 2013
IN
WRIT PETITION NO.4818 OF 2012**

Dattatraya Baliram Mhatre	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.221 OF 2013
IN
WRIT PETITION NO.6145 OF 2012**

Ramesh Narayan Mhatre	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.222 OF 2013
IN
WRIT PETITION NO.6142 OF 2012**

Sharad Kashinath Patil	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.223 OF 2013
IN
WRIT PETITION NO.6147 OF 2012**

Suresh Gopal Patil	...	Appellant
versus		

M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.224 OF 2013
IN
WRIT PETITION NO.6141 OF 2012**

Jayram Pandurang Mhatre ... Appellant

versus

M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.225 OF 2013
IN
WRIT PETITION NO.6152 OF 2012**

S. Irudayaraj ... Appellant

versus

M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.226 OF 2013
IN
WRIT PETITION NO.6144 OF 2012**

Narayan Ganpat Patil ... Appellant

versus

M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.227 OF 2013
IN
WRIT PETITION NO.6166 OF 2012**

Dnyaneshwar Govrya Dalvi ... Appellant

versus

M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.228 OF 2013
IN**

WRIT PETITION NO.6158 OF 2012

Kisan Arjun Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.229 OF 2013
IN
WRIT PETITION NO.4817 OF 2012**

Prabhakar Bembat Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.230 OF 2013
IN
WRIT PETITION NO.6161 OF 2012**

Motiram Tukaram Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.231 OF 2013
IN
WRIT PETITION NO.4806 OF 2012**

Nivrutti Pandharinath Mhatre ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.233 OF 2013
IN
WRIT PETITION NO.6151 OF 2012**

Ramesh Krishna Mhatre ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.234 OF 2013
IN
WRIT PETITION NO.4816 OF 2012**

Sandeep Padmakar Kulkarni	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.235 OF 2013
IN
WRIT PETITION NO.4828 OF 2012**

Rohidas Pandurang Patil	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.236 OF 2013
IN
WRIT PETITION NO.6153 OF 2012**

Jaywant Kashinath Bhoir	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.238 OF 2013
IN
WRIT PETITION NO.6137 OF 2012**

Ramesh Waman Mhatre	...	Appellant
versus		
M/s. Relene Petrochemicals Ltd.	...	Respondent

**WITH
LETTERS PATENT APPEAL NO.239 OF 2013
IN
WRIT PETITION NO.4821 OF 2012**

Chandrakant Anant Madhavi ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.240 OF 2013
IN
WRIT PETITION NO.6165 OF 2012**

Raghu Sescu Bangera ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.241 OF 2013
IN
WRIT PETITION NO.6156 OF 2012**

Sahadeo Kaluram Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

**WITH
LETTERS PATENT APPEAL NO.242 OF 2013
IN
WRIT PETITION NO.6154 OF 2012**

Dattatraya Madhukar Patil ... Appellant
versus
M/s. Relene Petrochemicals Ltd. ... Respondent

Mr. Avinash D. Kango for Appellants.
Mr. Sudhir Talsania, Senior Advocate with Mr. Kiran Bapat, Ms.
Melanie D'Souza i/by M/s. A.S.Dayal and Associates, for Respondent.

**CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATE: 22nd AUGUST, 2019

P.C.:

1. These Letters Patent Appeals arise out of a common judgment of the learned Single Judge dated 12th September, 2012 in Writ Petition No.4810 of 2012 and connected Petitions in the case of Gajanan Gangaram Patil V/s. Relene Petrochemicals Ltd. The Petitions before the learned Single Judge arose out of the three separate Awards passed by the Industrial Tribunal in case of three groups of the workmen of the Respondent Company. The workmen were before the Industrial Tribunal raising industrial disputes complaining about short payment of VRS amounts under slightly different factual background. It is not necessary for us to dictate into such factual details. Suffice it to record, the Industrial Tribunal had by the impugned awards, rejected all the disputes, upon which several petitions came to be filed before the High Court, which were consolidated, heard together and disposed off by the common judgment by the learned Single Judge of this Court.

2. Since the decision of the learned Single Judge was directed against the awards of the Industrial Tribunal, the question of maintainability of the Letters Patent Appeals was taken up at the outset. In this context, the learned Counsel for the Company pointed out that against this very impugned Judgment of the

learned Single Judge, a group of Original Petitioners had filed Letters Patent Appeal No.174 of 2013 and connected Appeals before the Division Bench of this Court. These Letters Patent Appeals came to be dismissed by an order dated 27th November, 2018, which reads as under :

“1. Perusal of the Judgment and order passed by the learned Single Judge would clearly reveal that though the Petitioners purportedly filed Writ Petitions under Article 226 of the Constitution of India, the jurisdiction which has been exercised by the learned Single Judge has been exercised under Article 227 of the Constitution of India.

2. In that view of the matter and considering the law laid down by the larger Bench of this Court in the case of Advani Oerlikon Ltd. V/s. Machindra Govind Makasare & Ors.¹, these Letter Patent Appeals are not tenable.

3. All the Appeals are therefore, dismissed on the ground of tenability.”

3. Counsel further pointed out that against the said order dated 27th November, 2018 passed by this Court, the aggrieved appellants had approached the Supreme Court. The SLP came to be withdrawn with a liberty to challenge the judgment of the learned

¹ 2011 (2) Mh.L.J. 916

Single Judge before the Supreme Court. The order dated 15th April, 2019 in the SLP reads as under :

“Upon hearing the counsel the Court made the following

ORDER

Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Special Leave Petition with a liberty to challenge the order dated 6th September, 2012 passed by learned Single Judge in W.P.No.4810 of 2012 in fresh Special Leave Petition.

With the aforesaid liberty, the Special Leave Petition is dismissed as withdrawn.”

4. Counsel further pointed out that subsequently, SLPs were also filed by those appellants challenging the judgment of the learned Single Judge before the Supreme Court. Such SLPs came to be dismissed on 16th August, 2019 in the following manner :

“Upon hearing the counsel the Court made the following

ORDER

Delay condoned.

The Special Leave Petition is dismissed.

Pending application(s) if any, shall stand disposed of.

5. In view of such development, Counsel for the Company

submitted that these Letters Patent Appeals not being maintainable should be dismissed on that ground.

6. On the other hand, learned Counsel for the appellants vehemently contended that as per law laid down by the Supreme Court in series of judgments, the present appeals are maintainable. The earlier orders passed by this Court in connected Appeals holding that the Letters Patent Appeals are not maintainable, had not noticed such judgments. The decision should therefore, be held to be *per incuriam* or in the alternative, should be referred to larger bench. Counsel referred to the following decisions in this regard :

(i) Life Insurance Corporation of India V/s. Sanjeev Builders Pvt. Ltd. & Ors.²;

(ii) Ram Kishan Fauji V/s. State of Haryana & Ors.³;

(iii) Arun Babulal Pareshkar V/s. Ahmedabad Municipal Corporation⁴;

(iv) Arun Dev Upadhyay V/s. Integrated Sales Services Ltd.⁵;

(v) Sumer Builders Pvt. Ltd. V/s. Narendra Garani⁶; and

(vi) Jogendra Sinhji Vijay Singhji V/s. State of Gujarat & Ors.⁷

² (2018) 11 SCC 722

³ (2017) 5 SCC 533

⁴ (2016) 13 SCC 766

⁵ (2016) 9 SCC 524

⁶ (2016) 2 SCC 582

⁷ (2015) 9 SCC 1

7. In our opinion, the Letters Patent Appeals are not maintainable. It is not necessary to refer to several judgments cited by the Counsel for the appellants. Reference only to the decision in the case of Jogendra Sinhji Vijay Singhji (supra) would be enough. Since in such judgment, the law on the subject has been discussed threat-bare and the legal propositions culled out are not questioned or doubted in any subsequent judgments. The appeal before the Supreme Court arose out of Five Judge Bench of the Gujarat High Court laying down the parameters for entertaining intra Court appeals against the decision of the learned Single Judge of the High Court. The Supreme Court tressed the entire law on the subject and made the following observations :

“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 Shyam⁸, 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.

8 (2015) 5 SCC 423

19. *The next aspect that has to be adverted to is under what situation, a Letters Patent Appeal is maintainable before a Division Bench. We repeat at the cost of repetition that we have referred to series of judgments of this Court which have drawn the distinction between Articles 226 and 227 of the Constitution of India and the three-Judge Bench in Radhey Shyam (supra) has clearly stated that jurisdiction under Article 227 is distinct from jurisdiction under Article 226 of the Constitution and, therefore, a letters patent appeal or an intra-court appeal in respect of an order passed by the learned Single Judge dealing with an order arising out of a proceeding from a Civil Court would not lie before the Division Bench. Thus, the question next arises under what circumstances a letters patent appeal or an intra-court appeal would be maintainable before the Division Bench.*

30. *From the aforesaid pronouncements, it is graphically clear that maintainability of a letters patent appeal would depend upon the pleadings in the writ petition, the nature and character of the order passed by the learned Single Judge, the type of directions issued regard being had to the jurisdictional perspectives in the constitutional context. Barring the civil court, from which order as held by the three-Judge Bench in Radhey Shyam (supra) that a writ petition can lie only under Article 227 of the Constitution, orders from tribunals cannot always be regarded for all purposes to be under Article 227 of the Constitution.*

Whether the learned Single Judge has exercised the jurisdiction under Article 226 or under Article 227 or both, needless to emphasise, would depend upon various aspects that have been emphasised in the aforesaid authorities of this Court. There can be orders passed by the learned Single Judge which can be construed as an order under both the articles in a composite manner, for they can co-exist, coincide and imbricate. We reiterate it would depend upon the nature, contour and character of the order and it will be the obligation of the Division Bench hearing the letters patent appeal to discern and decide whether the order has been passed by the learned Single Judge in exercise of jurisdiction under Article 226 or 227 of the Constitution or both. The Division Bench would also be required to scrutinize whether the facts of the case justify the assertions made in the petition to invoke the jurisdiction under both the Articles and the relief prayed on that foundation. Be it stated, one of the conclusions recorded by the High Court in the impugned judgment pertains to demand and payment of court fees. We do not intend to comment on the same as that would depend upon the rules framed by the High Court.

43. As we notice, the decisions rendered in Hari Vishnu Kamath⁹, Udit Narain Singh¹⁰ and Savitri Devi¹¹ have to be properly understood. In Hari Vishnu Kamath (supra), the larger Bench was dealing with a case that arose from

⁹ AIR 1955 SC 233

¹⁰ AIR 1963 SC 786

¹¹ (1999) 2 SCC 577

Election Tribunal which had ceased to exist and expressed the view how it is a proper party. In Udit Narain Singh (supra), the Court was really dwelling upon the controversy with regard to the impleadment of parties in whose favour orders had been passed and in that context observed that tribunal is a necessary party. In Savitri Devi (supra), the Court took exception to courts and tribunals being made parties. It is apposite to note here that propositions laid down in each case have to be understood in proper perspective. The Civil courts, which decide matters, are courts in the strictest sense of the term. Neither the court nor the Presiding Officer defends the order before the superior court it does not contest. If the High Court, in exercise of its writ jurisdiction or revisional jurisdiction, as the case may be, calls for the records, the same can always be called for by the High court without the Court or the Presiding Officer being impleaded as a party. Similarly, with the passage of time there have been many a tribunal which only adjudicate and they have nothing to do with the lis. We may cite a few examples; the tribunals constituted under the Administrative Tribunals Act, 1985, the Custom, Excise & Service Tax Appellate Tribunal, the Income Tax Appellate Tribunals, the Sales Tax Tribunal and such others. Every adjudicating authority may be nomenclatured as a tribunal but the said authority(ies) are different that pure and simple adjudicating authorities and that is why they are called the authorities. An Income Tax Commissioner, whatever rank he

may be holding, when he adjudicates, he has to be made a party, for he can defend his order. He is entitled to contest. There are many authorities under many a statute. Therefore, the proposition that can safely be culled out is that the authorities or the tribunals, who in law are entitled to defend the orders passed by them, are necessary parties and if they are not arrayed as parties, the writ petition can be treated to be not maintainable or the court may grant liberty to implead them as parties in exercise of its discretion. There are tribunals which are not at all required to defend their own order, and in that case such tribunals need not be arrayed as parties. To give another example:- in certain enactments, the District Judges function as Election Tribunals from whose orders a revision or a writ may lie depending upon the provisions in the Act. In such a situation, the superior court, that is the High Court, even if required to call for the records, the District Judge need not be a party. Thus, in essence, when a tribunal or authority is required to defend its own order, it is to be made a party failing which the proceeding before the High Court would be regarded as not maintainable.

45. In view of the aforesaid analysis, we proceed to summarise our conclusions as follows:-

45.1 Whether a letters patent appeal would lie against the order passed by the learned Single Judge that has travelled to him from the other tribunals or authorities, would depend upon many a facet. The Court fee payable on a petition to

make it under Article 226 or [Article 227](#) or both, would depend upon the rules framed by the High Court.

45.2 The order passed by the civil court is only amenable to be scrutinized by the High Court in exercise of jurisdiction under Article 227 of the Constitution of India which is different from Article 226 of the Constitution and as per the pronouncement in Radhey Shyam (supra), no writ can be issued against the order passed by the civil court and, therefore, no letters patent appeal would be maintainable.

45.3 The writ petition can be held to be not maintainable if a tribunal or authority that is required to defend the impugned order has not been arrayed as a party, as it is a necessary party.

45.4 Tribunal being or not being party in a writ petition is not determinative of the maintainability of a letters patent appeal.”

8. The crux of the issue therefore, is that the Letters Patent Appeal would be maintainable if the learned Single Judge had exercised his Writ jurisdiction under Article 226 of the Constitution of India. On the other hand, the exercise of such jurisdiction can be seen as one under Article 227 of the Constitution, no intra-court appeal would be maintainable. In the present case, the Division Bench has in case of Shri Savari Muthu James V/s. M/s. Relene

Petrochemical Ltd. In Letters Patent Appeal No.174 of 2013 come to the conclusion that though the Petitions were purportedly filed under Article 226 of the Constitution, the jurisdiction which has been exercised by the learned Single Judge has been under Article 227 of the Constitution of India. These conclusions are binding on us, coming from the co-ordinate Division Bench. On legal conclusions on the co-ordinate bench, it may be open for the Counsel for the appellants to advance further arguments and submit that the decision is either *sub-silentio*, *per incuriam* or one which requires reference to a larger Bench, as being one laying down the proposition of law, which is of doubtful validity. Nevertheless, when it comes to finding of facts, there is no such scope available with the Counsel for the appellants and in any case, no such attempt has been made.

9. In conclusion, we find that the question whether the learned Single Judge while disposing off the group of Petitions by the impugned Judgment had exercised jurisdiction under Articles 226 or 227 of the Constitution of India is concluded one. The Division Bench having already concluded the issue, we must follow the suit, when the present group of Appeals arise out of the same common Judgment. We have also recorded that against the decision of the

Division Bench in the case of Shri Savari Muthu James (supra), SLP was filed, but withdrawn with a liberty to file SLP against the judgment of the learned Single Judge. Such SLP was filed, but dismissed.

10. Considering these circumstances, the Letters Patent Appeals are dismissed as not maintainable.

(S.J.KATHAWALLA, J.)

(AKIL KURESHI, J.)