

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA-1392-2019 (O&M)

Date of decision:- 26.08.2019

Surjit Singh plaintiff (now deceased) through his LRs
Angrej Kaur and others

...Appellants

Versus

Thakar Ram Singh (now deceased) through LR
Pardeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Dinesh K. Malhotra, Advocate,
Mr. Saksham Malhotra, Advocate,
for the appellants.

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KRISHNA MURARI, C.J. (ORAL)

CM-3060-LPA-2019

For the reasons mentioned in the application, the
delay of 54 days in filing the appeal is condoned.

The application stands disposed of.

LPA-1392-2019

This intra court appeal under clause X of the Letters
Patent is directed against the judgement and order
dated 08.03.2019 passed by the learned Single Judge in a
revision petition filed under Article 227 of the Constitution
of India against the order dated 28.01.2015 passed by
Additional Civil Judge (Senior Division), Bathinda and
judgement and decree dated 31.03.2016 passed by Additional
District Judge, Bathinda vide which the application under
Order 37 Rule 4 of the Code of Civil Procedure, 1908 was
concurrently dismissed.

2. When confronted with the observation with respect to maintainability of this appeal arising out of a judgement of the learned Single Judge exercising powers under Article 227 of the Constitution of India, learned counsel for the appellants relying upon a Full Bench judgement of this Court in the case of *Parshotam Dass Vs State of Haryana*, 2003(4) RCR (Civil) 73 contended that an appeal would be maintainable. However, a Division Bench of this Court in the case of *Ajit Pal Singh Vs Gurpreet Kaur* (Review Application No. LP-3-2019 in LPA-181-2019 decided on 15.02.2019) after noticing the Full Bench judgement and distinguishing the same has taken a view that Letters Patent Appeal against an order passed in a Revision Petition filed under Article 227 of the Constitution of India against the orders passed by a Civil Court would not be maintainable. While taking the aforesaid view, reliance was placed on another Division Bench judgement of this Court in LPA-816-2015 titled as *Col. Raghubir Singh and others Vs The Punjab & Haryana High Court and others* decided on 28.08.2015, wherein also a similar question was involved. Relying upon the Apex Court judgement in the case of *Radhey Shyam and another Vs Chhabi Nath and others*, 2015(5) SCC 423, the Division Bench of this Court in the case of *Col. Raghubir Singh and others (supra)* observed as under:-

"12. A perusal of the above clause shows that the provisions of the Letters Patent of Bombay High Court are different than the Punjab High Court, which exclude the intra Court appeal against the order passed in revisional jurisdiction. Even under the Letters Patent (Bombay), an appeal is not maintainable against an order passed in petition under Article 227 of the Constitution.

13. The finding that appeal is maintainable in Sushilabai Laxminarayan Mudiyar and Umaji Kesho Meshram cases (supra), is when an order is passed in

a petition under Article 226 and 227 of the Constitution. In view of the judgment in Radhey Shyam’s case (supra), an order passed by the Civil Court cannot be challenged in a writ petition. Therefore, an order passed in exercise of powers under Article 227 of the Constitution is not subject to appeal under Clause 10 of the Letters Patent.

14. In view of the above, we find that an appeal under Clause 10 of the Letters Patent is not maintainable against an order passed by the learned Single Judge against the order of the Civil Court. It is only order passed in exercise of the powers under Article 226 of the Constitution, which is appealable.

15. Consequently, the present letters patent appeal is dismissed as not maintainable.”

3. In the wake of the above facts and circumstances, the instant intra court appeal is not maintainable and accordingly stands dismissed as such.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

26.08.2019
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No