

Review Application No. 35-2019 in
LPA No. 1392-2019

Surjit Singh through
legal heirs

vs.

Thakar Ram Singh through
legal heir

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

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Learned counsel for the applicants submits that the order passed by this Court in Letters Patent Appeal No. 1392 of 2019 dated 26.08.2019 dismissing the appeal filed by the applicants-appellants as not maintainable deserves to be reviewed as the said order was passed without properly interpreting or appreciating the Full Bench judgment of this Court in the case of ***Parshotam Dass v. State of Haryana 2003(4) RCR (Civil) 73***, and the decision of the Supreme Court in the case of ***Radhey Shyam and another v. Chhabi Nath and others 2015(5) SCC 423***. It is further submitted that reference to Section 100A(b) of the Civil Procedure Code, which stood deleted establishes a patent error evident from the face of the record.

We have heard learned counsel for the applicants-appellants at length and have also perused the order passed by this Court.

Apparently this Court has taken into consideration and referred to the aforesaid decisions, namely, the decision in the case of *Parshotam Dass (supra)* and *Radhey Shyam (supra)* and has also quoted the decision dated 28.08.2015 passed in Letters Patent Appeal No. 816 of 2015 ***Col. Ragbir Singh and others v. The Punjab and Haryana High Court and others***, while recording a conclusion that the Letters Patent Appeal was not maintainable against an order passed by the Single Bench in exercise of powers under Article 227 of the Constitution of India.

In the instant case, undisputedly, the Letters Patent Appeal had been filed by the applicants-appellants against the order dated 08.03.2019 passed by the learned Single Judge in exercise of powers under Article 227 of the Constitution of India by which the learned Single Judge had allowed the revision petition filed by the respondents against the order dated 28.01.2015 passed by Additional Civil Judge (Senior Division), Bathinda and judgment and decree dated 31.03.2016 passed by Additional District Judge, Bathinda in civil proceedings.

In the circumstances, specifically in view of the law laid down by the Supreme Court in the case of **Radhey Shyam** (*supra*), para 45.2 in the decision in the case of **Jogenderasinhji Vijaysinghji v. State of Gujarat and others** (2015) 9 SCC 1, and paragraph 42.3 in the case of **Ram Kishan Fauji v. State of Haryana and others** (2017) 5 SCC 533, wherein the Supreme Court, while considering the provisions of the Letters Patent Appeal, has laid down the law that all petitions assailing orders of the Civil Court are under Article 227 of the Constitution of India and that no Letters Patent Appeal would lie against such an order of a Single Judge passed in exercise of powers under Article 227 of the Constitution of India.

In view of the law laid down in the aforesaid cases, the order under review dismissing the Letters Patent Appeal as not maintainable does not disclose any error or mistake evident on the face of the record even if Section 100A(b) which was deleted, has been referred to, as such a reference does not affect the final conclusion which is in accordance with the law laid down by the Supreme Court in the above referred cases.

In view of the above, we do not find any glaring or apparent mistake evident from the face of the record warranting interference in review.

Accordingly, the review application is dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

15.11.2019
ravinder