

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

LETTERS PATENT APPEAL NO.180/2013 IN WRIT PETITION NO. 866/2013 (D)

(BHAWANA DINESH MUNDADA **VERSUS** NISHA NARENDRA DASHASHASTRA & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri V.P. Panpalia, counsel for the appellant.

CORAM : A. S. CHANDURKAR AND G.A. SANAP JJ.

DATED : 26TH OCTOBER, 2021.

In this letters patent appeal, the orders passed by the Civil Court in proceedings under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 were under challenge.

The appellant who is the original plaintiff had preferred Writ Petition No.866 of 2013 for challenging the order passed in Miscellaneous Civil Appeal No.61 of 2012. The said writ petition came to be dismissed and hence the present letters patent appeal was filed.

In view of the decision in *Ramdayal Gulabchand Khandelwal Versus Mahendra Badrinarayan Khandelwal* [2021 (4) Mh.L.J. 653] it is clear that while challenging the orders passed by the Civil Court it would not be permissible to exercise certiorari jurisdiction. On that count, it has been held that a letters patent appeal arising out of an order passed in a writ petition challenging the orders passed by the Civil Court would not be maintainable.

Accordingly, it is held that the present letters patent appeal is not maintainable. It is therefore not entertained on merits and disposed of as such. It is open for the appellant to seek redressal of her grievances in accordance with law. The points raised in the letters patent appeal are kept open. The interim relief which has been operating since 2015 is continued for a period of four weeks from today. No costs.

(G.A. SANAP, J.)

(A. S. CHANDURKAR, J.)