

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

LETTERS PATENT APPEAL NO.569/2010 IN
WRIT PETITION NO.3375/2010(D)

Ganesh s/o Jagannath Choukse
 Aged about 50 years, occupation-Agriculturist,
 R/o. Near Vasant-Wadi, Main Road, Khamgaon,
 District Buldhana.

APPELLANT

...V E R S U S...

- 1] Prabhakar s/o Wasudeo Tikar,
Aged about 56 years, occupation-agriculturist.
- 2] Nilkanth s/o Wamanrao Lanjulkar.
Aged about 58 years, occupation- Service.
- 3] Nirmalabai w/o Dinkar Lanjulkar.
Aged about 49 years, occupation-agriculturist.
- 4] Sekhar s/o Jagannath Tikar,
Aged about 37 years, occupation-agriculturist.
- 5] Ajabrao Bakiram Tikar
Aged about 71years, occupation-agriculturist
All R/o Tembhurne, Tq. Khamgaon, Dist. Buldhana.
- 6] Sau. Shobhana Umesh Sharma,
Aged about 36 years, occupation-household.
- 7] Sau.Nita Rajendra Sharma,
Aged about 41 years, occupation-household
R.Nos. 6 and 7 R/o. Khamgaon, Jagdamba Road,
Jalalpura, Tq. Khamgaon, District Buldhana. **..RESPONDENTS**

 None for appellant.

CORAM : A.S.CHANDURKAR and PUSHPA V. GANEDIWALA, JJ.
DATED : 28.06.2021

ORAL JUDGMENT (Per A. S. Chandurkar, J.)

There is no appearance on behalf of the appellant.

However we have perused the challenge raised in the letters patent appeal and we have also gone through the memorandum of appeal. In Writ Petition No.3375/2010 that was filed by the appellant herein the challenge was raised to the judgment and decree passed by the learned Additional Sessions Judge, Khamgaon in Miscellaneous Civil Appeal No.38/2009 by which order the injunction granted by the trial Court came to be confirmed. In other words what was challenged in writ petition was an order passed by the Civil Court.

2. In *Jogendrasinhji Vijaysinghji Vs. State of Gujrat and others (2015) 9 SCC 1* it has been held by the Hon'ble Supreme Court that a challenge to an order passed by the Civil Court can be examined only in a writ petition under Article 227 of the Constitution of India. When such adjudication by the learned Single Judge in writ petition is in exercise of jurisdiction under Article 227 of the Constitution, no letters patent appeal would be maintainable. This view has been reiterated in *Ram Kishan Fauji Vs. State of Haryana (2017) 5 SCC 533*.

3. Hence in view of the aforesaid law the letters patent appeal is held to be not maintainable. The appellant is free to challenge the order passed by the learned Single Judge in Writ Petition No. 3375/2010 by initiating appropriate proceedings.

All the points raised in the letters patent appeal are kept open. Letters Patent Appeal No.569/2010 is disposed of as not maintainable. The parties to bear their own costs.

JUDGE

JUDGE

Andurkar..