

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

LETTERS PATENT APPEAL NO.609 OF 2010
IN
WRIT PETITION NO.2419 OF 2010

Municipal Council, Branhmapuri,
Through its Chief Officer, Bramhapuri, Tq. Brahmapuri, Dist. Chandrapur

-vs-

Dhanraj s/o Manik Thakare,
Adult, Occupation, Not known, R/o Nanhori Tq. Brahmapuri, Dist. Chandrapur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R. J. Kankale, Advocate for appellant.
Shri B. M. Kharkate, Advocate for respondent.

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

DATE : August 23, 2021

The challenge raised in this Letters Patent Appeal is to the common judgment dated 14/09/2010 in Writ Petition Nos.2419/2010 and 2436/2010. It may be mentioned that against the judgment in Writ Petition No.2436/2010, the present appellant had preferred Letters Patent Appeal No.73/2011 which came to be dismissed on 25/02/2011 by passing the following order :

“ Heard.

The only contention, raised by the appellant-Municipal council in this appeal, is that the learned Single Judge ought not to have held that the complaint is tenable under the M.R.T.U. & P.U.L.P. Act since there is a dispute about relationship of employer-employee. We find from the judgment of the

learned Single Judge that the learned Single Judge (sic has) not accepted the plea of the appellant inter alia on the ground that no proper pleadings were set out to show how the complainants were not employees of the Municipal Council and they were the employees of the contractor particularly when the complainants were working from the year 1992. The learned Single Judge has observed that the appellant failed to establish by any documentary evidence to show that the respondents were working under the contractor. On the contrary, R.W.2 Ramdas Thombre stated that there was no document to show that they were working under the contractor. The learned Single Judge has, thus, upheld the findings of fact considered by the two Courts below. We see no reason to interfere with the judgment of the learned Single Judge. Hence, the appeal is dismissed.”

We find that the Labour Court had decided two complaints by its common judgment dated 16/03/2006 which orders thereafter were confirmed by the Industrial Court. Both the writ petitions were decided by common judgment dated 14/09/2010. Hence the adjudication of Letters Patent Appeal No.73/2011 would govern this Letters Patent Appeal. This is for the reason that while deciding both the writ petitions together the evidence of the witnesses were appreciated and said aspect also finds place in the order passed in Letters Patent Appeal No.73/2011. In that view of the matter since the present Letters

Patent Appeal arises from common judgment of the learned Single Judge dated 14/09/2010 which stands confirmed in so far as Writ Petition No.2436/2010 is concerned, this Letters Patent Appeal is dismissed for the reasons stated in Letters Patent Appeal No.73/2011. There shall be no order as to costs.

JUDGE

JUDGE