

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.357 of 2022

In

Miscellaneous Appeal No.87 of 2015

Vijay Kumar Singh S/o Late Bhubneshwar Prasad Choudhary, resident of
Village and Post - Devgana Gharbhara, P.S. - Bochhan, Dist- Muzaffapur.

... .. Appellant/s

Versus

1. Bihar State Board of Religious Trusts Vidyapati Marg, Patna.
2. The State of Bihar through the Collector, Muzaffarpur.
3. Ram Sundar Prasad Singh S/o Late Uma Kant Prasad Choudhary, resident of
Village and Post-Devgana Gharbhara, P.S. - Bochhan, District -
Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Suman Kumar Verma, Advocate Mr. Sunil Kumar Verma, Advocate Mr. Anish Kumar, Advocate Ms. Ayushi Singh, Advocate Mr. Amresh Kumar Mishra, Advocate Mr. Anjali Singh, Advocate
For the State	:	Mr. Gyan Prakash Ojha, GA-7 Mr. Abhinav Ashok, AC to GA-7
For BSBRT	:	Mr. Shekhar Singh, Sr. Advocate Mr. Sumit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA)

Date: 25-04-2025

Heard the parties.

2. Brief history of the litigation leading up to filing of the
present Letters Patent Appeal is that the appellant had preferred
a Miscellaneous Appeal under Section 55 (1) of The Bihar
Hindu Religious Trusts Act, 1950 (in short 'the Religious Trusts
Act') against an order dated 08.01.2015 passed by the learned



District Judge, Muzaffarpur in Miscellaneous Case No.18 of 2012. The said Case was registered as Miscellaneous Appeal Case No.87 of 2015. This Miscellaneous Appeal No.87 of 2015 was heard and dismissed by the Learned Single Judge on 21.06.2022 for the reasons stated in the said order.

3. As against the Judgment & Order dated 21.06.2022 passed in Miscellaneous Appeal No.87 of 2015 by the Learned Single Judge, the appellant has filed this Intra-Court Appeal under Clause 10 of the Letter Patent of Patna High Court Rules.

4. On 02.08.2022, an office objection was raised as to the maintainability of the present Intra-Court Appeal against the Judgment & Order dated 21.06.2022 passed in Miscellaneous Appeal No.87 of 2015 and the said objection was placed before this court for adjudication. Consequently, on 04.04.2025 both the parties were heard at length on the issue of maintainability of the present Letters Patent Appeal.

5. The learned Counsel for the appellant strenuously argued and submitted that in terms of Clause 10 of the Letter Patent of Patna High Court Rules, the present Intra-Court Appeal was maintainable in law. It, therefore, becomes necessary to quote Clause 10 of the Letter Patent of Patna High Court Rules:

“10. Appeal to the High Court from Judges of the Court. - And we do further ordain that an



appeal shall lie to the said High Court of Judicature at Patna from the Judgement (not being a Judgment passed in the exercise of appellate jurisdiction in respect of a decree or order) made in the exercise of Appellate Jurisdiction by a Court subject to the superintendence of the said High Court, and not being an order made in the exercise of Revisional Jurisdiction, and not being a sentence or order passed or made in the exercise of the power of superintendence under the provisions of Section 107 of the Government of India Act, or in the exercise of Criminal Jurisdiction of one Judge of the said High Court or one Judge of any Division Court, pursuant to Section 108 of the Government of India Act, and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgment of one Judge of the said High Court or one Judge of any Division Court. Pursuant to Section 108 of the Government of India Act, made on or after the first day of February, One thousand nine hundred and twenty-nine, in the exercise of Appellate Jurisdiction in respect of a decree or order made in the exercise of Appellate jurisdiction by a Court subject to the superintendence of the said High Court, where the Judge who passed the Judgment declares that the case is a fit one for appeal; but that the



right of appeal from other judgments of Judges of the said High court or of such Division Court shall be to Us, Our Heirs or Successors in Our or Their Privy Council, as hereinafter provided”.

[Emphasis Supplied]

Learned Counsel for the appellant submitted that since the Judgment & Order dated 21.06.2022 passed in Miscellaneous Appeal No.87 of 2015 was not a Judgment passed in the exercise of appellate jurisdiction in respect of a Decree or Order, therefore in terms of Clause 10 of the Letter Patent an Intra-Court Appeal was maintainable. To fortify his submission, the learned Counsel for the appellant relied upon the following Judgments:

a) *Sh. Jogendrasinhji Vijaysinghji vs. State of Gujarat* delivered by Apex Court and reported in **2015 (3) PLJR 453 (Relevant Para 25)**. Para 25 of this Judgment is quoted herein below for needful:

“25. From the aforesaid pronouncements, it is graphically clear that maintainability of a letters patent appeal would depend upon the pleadings in the writ petition, the nature and character of the order passed by the learned Single Judge, the type of



directions issued regard being had to the jurisdictional perspectives in the constitutional context. Barring the civil court, from which order as held by the three-Judge Bench in Radhey Shyam (supra) that a writ petition can lie only under Article 227 of the Constitution, orders from tribunals cannot always be regarded for all purposes to be under Article 227 of the Constitution. Whether the learned Single Judge has exercised the jurisdiction under Article 226 or under Article 227 or both, needless to emphasise, would depend upon various aspects that have been emphasised in the aforestated authorities of this Court. There can be orders passed by the learned Single Judge which can be construed as an order under both the articles in a composite manner, for they can co-exist, coincide and imbricate. We reiterate it would depend upon the nature, contour and character of the order and it will be the obligation of the Division Bench hearing the letters patent appeal to discern and decide whether the order has been passed by the learned Single Judge in exercise of jurisdiction under Article 226 or 227 of the Constitution or both. The Division



Bench would also be required to scrutinize whether the facts of the case justify the assertions made in the petition to invoke the jurisdiction under both the articles and the relief prayed on that foundation. Be it stated, one of the conclusions recorded by the High Court in the impugned judgment pertains to demand and payment of court fees. We do not intend to comment on the same as that would depend upon the rules framed by the High Court.”

[Emphasis Supplied]

b) *Mohammad Ali vs. Md. Quamru Jamma and others*
delivered by this Court and reported in **2015 (4) PLJR 323**
(Relevant Para 7, 8, 9 and 10), which is quoted herein below
for needful:

“7. We have heard Mr. Gyan Prakash Ojha, learned Counsel, appearing on behalf of the appellant.

8. While considering the present appeal, it may be pointed out that before coming into force of the Code of Civil Procedure (Amendment) Act, 2002, Section 100-A read, “No further appeal in certain cases – Notwithstanding anything contained in any Letters Patent for any High Court or in any other



instrument having the force of law or in any other law for the time being in force, where any appeal from an appellate decree or order is heard and decided by a Learned Single Judge of the High Court, no further appeal shall lie from the judgment, decision or order of such Learned Single Judge in such appeal or from any decree passed in such appeal”. (Emphasis is added)

9. *Section 100-A, upon its amendment, with effect from 01.07.2002, reads as follows: “No further appeal in certain cases – Notwithstanding anything contained in any Letters Patent for any High Court or in any instrument having the force of law or in any other law for the time being in force, where any appeal from an original or appellate decree or order is heard and decided by a Learned Single Judge of the High Court, no further appeal shall lie from the judgment and decree of such Learned Single Judge.” (Emphasis is supplied)*

10. *From a bare reading of the provisions, embodied in Section 100-A, as the same stood before its amendment, made by the Code of Civil Procedure (Amendment) Act, 2002, it becomes clear that according to unamended Section*



100-A, no further appeal was maintainable from an order made by a learned Single Judge of a High Court in any appeal arising out of an appellate decree or order; whereas under the amended Section 100-A (as the same stands with effect from 01.07.2002), no appeal from an original or appellate decree or order, if heard and decided by a learned Single Judge of a High Court, would lie even if there is any provisions to the contrary in any Letter Patent of any High Court.”

c) Smt. Pratima Kaur vs. Jugal Kishore Toshniwal and another delivered by this Court and reported in **2016 (1) PLJR 488 (Relevant Para 4)**, which is quoted herein below for needful:

“4. Clause 10 of the Patna High Court Letters Patent provides for an appeal to the High Court from an order passed in the original appellate jurisdiction of the High Court and no other order. By series of judgments of this Court and the Apex Court, it is a settled law that from an order passed under Article 227 of the Constitution, no intra court appeal lies, muchless in terms of Letters Patent. The most recent being judgment of the Apex



Court in the case of Sh. Jogendrasinhji Vijaysinghji vs. State of Gujarat & Ors., since reported in 2015(3) PLJR 453(SC).”

[Emphasis Supplied]

d) Heera Chand Swarnkar vs. Sri Radhe Shyam Jee Maharaj Virajman and another delivered by this Court and reported in **2016 (1) PLJR 489 (Relevant Para 41)**, which is quoted herein below for needful:

“41. When broken into different components, what emerges is that under Clause 10 of the Letter Patent of Patna High Court, an appeal lies to the High Court of Judicature at Patna,

(1) from a judgment

(2) of one Judge of the High Court

(3) pursuant to Section 108 of the Government of India Act, 1915

(4) not being—

(a) a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a court subject to the superintendence of the High Court,

(b) an order made in the exercise of revisional jurisdiction,

(c) a sentence or order passed or made in exercise of the power of



*superintendence under the provisions of
Section 107 of the Government of India
Act, 1915, or*

*(d) a sentence or order passed or
made in the exercise of criminal
jurisdiction.”*

6. *Per contra*; the learned Counsels appearing for the Respondents have vehemently opposed the maintainability of the present Intra-Court Appeal and submitted that Sub-section (2) of Section 55 of ‘the Religious Trusts Act’ itself bars filing of any Appeal against the order of Learned Single Judge passed in purported exercise of appellate jurisdiction under Sub-section (1) of Section 55 of the said Act. It is relevant to reproduce herein below the entire Section 55 of ‘the Religious Trusts Act’, which is as follows:

***“Orders of District Judge to be appealable to
the High Court.***

*(1) Unless otherwise provided in this Act, an
appeal shall lie to the High Court against every
order passed by the District Judge under this
Act.*

*(2) No appeal shall lie from any order
passed in appeal under this Section.”*

[Emphasis Supplied]

7. Learned Counsels for the Respondents further submit that



none of the Judgments relied upon by the appellant are in respect of Section 55 of 'the Religious Trusts Act' and thus they do not apply to the facts and circumstances of the present case. Hence, in view of the bar contained in Sub-section (2) of Section 55 of 'the Religious Trusts Act', the present Intra-Court Appeal filed by the appellant under Clause 10 of the Letter Patent of Patna High Court Rules is not maintainable in law and thus fit to be dismissed.

8. In light of the submissions made by the rival parties, as regards maintainability of the present LPA, the only question which arises for consideration in this case is:

“Whether the present Intra-Court Appeal filed by the Appellant under Clause 10 of the Letter Patent of Patna High Court Rules is maintainable against Judgment and Order passed by the learned Single Judge in exercise of appellate jurisdiction under Sub-section (1) of Section 55 of ‘the Religious Trusts Act’, in light of the bar to filing of further Appeal created by Sub-section (2) of Section 55 of the said Act?”

9. After giving due consideration to Clause 10 of the Letter Patent of Patna High Court Rules and the four judgments relied upon by the appellant, this court is of the view that the present Intra-Court Appeal is not maintainable in law in view of the bar



created by Sub-section (2) of Section 55 of 'the Religious Trusts Act'. The reasons for the same are discussed herein below:

10. While citing the Judgment of the Apex Court delivered in the case of ***Sh. Jogendrasinhji Vijaysinghji (supra)***, the appellant relied on para 25 which has no relevance to the facts of the present case. In para 25 the issue under discussion was with regard to maintainability of his Letters Patent Appeal arising out of an order passed in writ petition. In the present case, the impugned order does not arise out of a writ petition but is in fact an order passed by Learned Single Judge in Appellate Jurisdiction while exercising power under Section 55 (1) of 'the Religious Trusts Act'. Manifestly, the issue under consideration in the Apex Court Judgment and in this case are different and hence the Judgment of the Apex Court delivered in ***Sh. Jogendrasinhji Vijaysinghji (supra)*** are not applicable to the facts and issue involved in the present case.

11. The second Judgment relied upon by the appellant is the case of ***Mohammad Ali vs. Md. Quamru Jamma and others (supra)*** in which this Court after taking notice of Section 100A of the Code of Civil Procedure held that no appeal from an original Appellate Decree or Order, if heard and decided by a Learned Single Judge of a High Court would lie even if there is



any provision to the contrary in any Letter Patent of any High Court. Even this Judgment does not deal with the issue which arises for consideration in this case that is when the statutory provision itself creates a bar to filing a Second Appeal then whether the said provision can be given a go by.

12. The third Judgment relied upon by the appellant is that of this court delivered in the case of ***Smt. Pratima Kaur (supra)*** wherein in para 4 it has been held that an Intra-Court Appeal would lie to the High Court from an order passed in the original Appellate Jurisdiction of the High Court. This Judgment again does not deal with the issue that when a statutory provision of law like Section 55 of 'the Religious Trusts Act' itself creates a bar to filing of a further appeal against the order passed in Appellate Jurisdiction under Sub-section (1) of Section 55 of 'the Religious Trusts Act' then whether the same can be ignored. Thus, even this Judgment does not apply to the facts and the issue under consideration in the present case.

13. The fourth Judgment relied upon by the appellant is the case of ***Heera Chand Swarnkar vs. Sri Radhe Shyam Jee Maharaj Virajman and another (supra)***. In this case law Clause 10 of the Letter Patent of Patna High Court Rules has been interpreted but even this Judgment does not deal with the



issue which has arisen in the present case, that is when there is a statutory bar to filing further appeal then whether the said statutory bar can be ignored. This Judgment, therefore, also does not deal with the issue which has arisen for consideration in the facts of the present case and hence cannot be relied upon.

14. Thus, none of the above four judgments relied upon by the appellant applies to the facts and the issue involved in the present case and hence they cannot be relied upon as Binding Precedents. This court considers it appropriate to refer to paragraph nos.13 to 21 of the Judgment delivered by the Apex Court in the case of ***Secundrabad Clubs Etc. vs. C.I.T. – V Etc.*** reported in **(2023) 12 SCR 979 : 2023 (11) Scale 137**, wherein the Apex Court has explained the entire concept of Binding Precedent. Paragraph nos.13 to 21 of this Judgment are quoted herein below for needful:

*“13. It is a settled position of law that only the ratio decidendi of a judgment is binding as a precedent. In **B. Shama Rao vs. Union Territory of Pondicherry, AIR 1967 SC 1480**, it has been observed that a decision is binding not because of its conclusion but with regard to its ratio and the principle laid down therein. In this context, reference could also be made to **Quinn vs. Leathem, 1901 AC 495 (HL)**, wherein it was observed that every judgment must be read as applicable to the particular facts proved, or assumed*



to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are found. In other words, a case is only an authority for what it actually decides.

14. Reliance could also be placed on the dissenting judgment of A.P. Sen, J. in **Dalbir Singh vs. State of Punjab, (1979) 3 SCC 745**, wherein his Lordship observed that a decision on a question of sentence depending upon the facts and circumstances of a particular case, can never be regarded as a binding precedent, much less “law declared” within the meaning of Article 141 of the Constitution so as to bind all courts within the territory of India. According to the well-settled theory of precedents, every decision contains three basic ingredients:

- (i) findings of material facts, direct and inferential. An inferential finding of fact is the inference which the Judge draws from the direct or perceptible facts;
- (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and
- (iii) judgment based on the combined effect of (i) and (ii) above.

For the purposes of the parties themselves and their privies, ingredient (iii) is the material element in the decision, for, it determines finally their rights and liabilities in relation to the subject-matter of the action. It is the judgment that estops the parties from reopening the dispute. However, for the purpose of the



doctrine of precedent, ingredient (ii) is the vital element in the decision. This is the ratio decidendi. It is not everything said by a judge when giving a judgment that constitutes a precedent. The only thing in a judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi.

*15. In the leading case of **Qualcast (Wolverhampton) Ltd. vs. Haynes, 1959 AC 743**, it was laid down that the ratio decidendi may be defined as a statement of law applied to the legal problems raised by the facts as found, upon which the decision is based. The other two elements in the decision are not precedents. A judgment is not binding (except directly on the parties to the lis themselves), nor are the findings of fact. This means that even where the direct facts of an earlier case appear to be identical to those of the case before the court, the judge is not bound to draw the same inference as drawn in the earlier case.*

16. The legal principles guiding the decision in a case is the basis for a binding precedent for a subsequent case, apart from being a decision which binds the parties to the case. Thus, the principle underlying the decision would be binding as a precedent for a subsequent case. Therefore, while applying a decision to a later case, the court dealing with it has to carefully ascertain the principle laid down in the previous decision. A decision in a case takes its flavour from the facts of the case and the question of



*law involved and decided. However, a decision which is not express and is neither founded on any reason nor proceeds on a consideration of the issue cannot be deemed to be law declared, so as to have a binding effect as is contemplated under Article 141, vide **State of Uttar Pradesh vs. Synthetics and Chemicals Ltd. (1991) 4 SCC 139**. Article 141 of the Constitution states that the law declared by the Supreme Court shall be binding on all the courts within the territory of India. All courts in India, therefore, are bound to follow the decisions of Supreme Court. This principle is an aspect of judicial discipline.*

*17. If a decision is on the basis of reasons stated in the decision or judgment, only the ratio decidendi is binding. The ratio or the basis of reasons and principles underlying a decision is distinct from the ultimate relief granted or manner of disposal adopted in a given case. It is the ratio decidendi which forms a precedent and not the final order in the judgment, vide **Sanjay Singh vs. Uttar Pradesh Public Service Commission, Allahabad; (2007) 3 SCC 720**. Therefore, the decision applicable only to the facts of the case cannot be treated as a binding precedent.*

18. The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law besides providing assurance to individuals as to the consequences of transactions forming part of daily affairs. Thus, what is binding in terms of Article 141 of the Constitution is the ratio of the judgment



and as already noted, the ratio decidendi of a judgment is the reason assigned in support of the conclusion. The reasoning of a judgment can be discerned only upon reading of a judgment in its entirety and the same has to be culled out thereafter. The ratio of the case has to be deduced from the facts involved in the case and the particular provision(s) of law which the court has applied or interpreted and the decision has to be read in the context of the particular statutory provisions involved in the matter. Thus, an order made merely to dispose of the case cannot have the value or effect of a binding precedent.

19. What is binding, therefore, is the principle underlying a decision which must be discerned in the context of the question(s) involved in that case from which the decision takes its colour. In a subsequent case, a decision cannot be relied upon in support of a proposition that it did not decide. Therefore, the context or the question, while considering which, a judgment has been rendered assumes significance.

20. As against the ratio decidendi of a judgment, an obiter dictum is an observation by a court on a legal question which may not be necessary for the decision pronounced by the court. However, the obiter dictum of the Supreme Court is binding under Article 141 to the extent of the observations on points raised and decided by the Court in a case. Although the obiter dictum of the Supreme Court is binding on all courts, it has only persuasive authority as far as the Supreme



Court itself is concerned.

21. In the context of understanding a judgment, it is well settled that the words used in a judgment are not to be interpreted as those of a statute. This is because the words used in a judgment should be rendered and understood contextually and are not intended to be taken literally. Further, a decision is not an authority for what can be read into it by implication or by assigning an assumed intention of the judges and inferring from it a proposition of law which the judges have not specifically or expressly laid down in the pronouncement. In other words, the decision is an authority for what is specifically decides and not what can logically be deduced therefrom.”

[Emphasis Supplied]

15. We also noticed that the learned Counsel for the appellant by relying on the four Judgments referred to above was all the time interpreting those Judgments and trying to logically infer from them that since the present Intra-Court Appeal was not against a Judgment passed in exercise of appellate jurisdiction in respect of a Decree or Order, therefore, by that inference the present Appeal would be maintainable under Clause 10 of the Letter Patent of Patna High Court Rules. This approach on part of the appellant was/is faulty for the reason that a decision is an authority for what it decides and not for what could be logically inferred from the conclusion [Reliance is placed on the



decisions of Apex Court in the case of ***Dr. (Mrs.) Chanchal Goyal vs. State of Rajasthan*** reported in (2003) 3 SCC 485 (Para 7) and ***Sarva Shramik Sanghatana (KV), Mumbai vs. State of Maharashtra and others*** reported in (2008) 1 SCC 494 (Para 14)]. Also, the four decisions relied upon by the appellant were rendered in different factual background. Relevant paragraphs of both these Judgments are quoted herein below for needful:

Para 7 of (2003) 3 SCC 485

“7. The decisions relied upon by the learned counsel for the appellant were rendered in different factual background. A decision is an authority for what it decides and not for what could be inferred from the conclusion.”

Para 14 of (2008) 1 SCC 494

*“15. On the subject of precedents Lord Halsbury, L.C., said in *Quinn V/s. Leathem*, (All ER p. 7 G-I):*

*"Now before discussing the case of *Allen V/s. Flood* and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions*



which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."

(emphasis supplied)

We entirely agree with the above observations."

16. When the learned Counsel appearing for the appellant was confronted with the statutory provision contained in Sub-section (2) of Section 55 of 'the Religious Trusts Act' which creates a bar to filing further appeal as against the order passed by the High Court in Appellate Jurisdiction under Sub-section (1) of Section 55 of the said Act, the learned Counsel could not come up with any satisfactory answer or judgment to overcome the said bar.

17. When the statute itself creates a bar in filing further appeal then the same cannot be ignored or given a go-by. The statutory provision creating the said bar has to be strictly



followed and adhered to. The impugned order under challenge in the present Letters Patent Appeal is an order passed by the Learned Single Judge in exercise of Appellate Jurisdiction conferred by Sub-section (1) of Section 55 of ‘the Religious Trusts Act’ and since Sub-section (2) of Section 55 of the said Act creates a bar to filing any further appeal against the said order passed under Sub-section (1) of Section 55, the present Letters Patent Appeal has to be held as not maintainable in law. The learned Counsel for the appellant has failed to produce any decision/ Judgment which overcomes this statutory bar and as such the present Appeal has to be dismissed as not maintainable.

18. For the reasons explained herein above and in the facts and circumstances of the present case, the present Intra-Court Appeal is dismissed as not maintainable in law.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

Prakash Narayan

AFR/NAFR	AFR
CAV DATE	04.04.2025
Uploading Date	25.04.2025
Transmission Date	NA

