

(2009) 07 PAT CK 0128
In the Patna High Court
Case No : LPA No. 923 of 2009

General Manager, NTPC, Kahalgaon, Bhagalpur

APPELLANT

Vs

Chandi Prasad Sah and Another

RESPONDENT

Date of Decision : 21-07-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100A
Land Acquisition Act, 1894 — Section 54

Citation : (2009) 3 PLJR 996

Hon'ble Judges : Shiva Kirti Singh, Acting C.J.; Anjana Prakash, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the appellant in respect of office objection regarding maintainability of this appeal against an order dated 22.5.2009 passed by a learned Single Judge of this Court in First Appeal No. 173 of 2007. The office has relied upon provisions contained in Section 100-A of the CPC which has been inserted by way of an amendment in the CPC by Act 104 of 1976.

2. According to learned counsel for the appellant, although the bar u/s 100A of CPC will apply to judgments and orders passed in any appeal from an original or appellate decree by a Single Judge of a High Court in respect of matters arising under ordinary laws, since this case arises out of Land Acquisition Act, 1894, the provisions in Section 54 of that Act would imply a right of appeal to a High Court from the award passed by the civil court and such appeal will include Letters Patent Appeal because this was the law when Section 54 was enacted.

3. The substance of the submission advanced by learned counsel for the appellant is that without an express amendment in Section 54 of the Land Acquisition Act showing applicability of further amendments in the CPC to an appeal u/s 54 of the Land Acquisition Act, the amendments in the CPC including Section 100-A will have no application to any appeal before a High Court.

4. In order to appreciate the aforesaid submission one has only to notice the express wordings of the legislature used in Section 100A of the Code of Civil Procedure. This section contains a non-obstante clause that 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, no further appeal shall lie from the judgment and decree of a Single Judge of a High Court passed in an appeal from an original or appellate decree. In our view, this statutory provision is couched in a language which is unambiguous and clear. It bars further appeal from the judgment and decree of a Single Judge of this Court in the prescribed circumstances without needing any further amendment in the Letters Patent of High Court or any other law. In that view of the matter, we hold that the office objection regarding maintainability of this appeal is justified. This appeal is, therefore, dismissed as not maintainable.