

(1931) 03 AHC CK 0058
In the Allahabad High Court

Babu Guru Charan Prashad and Another	APPELLANT
Vs	
Babu Rao Vishnu Pararkar	RESPONDENT

Date of Decision : 16-03-1931

Acts Referred:

Citation : (1931) ILR (All) 712 : 136 Ind. Cas. 282

Hon'ble Judges : Sulaiman, Acting C.J.;Bajpai, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. This is an application for taking proceedings against Babu Rao Vishnu Pararkar, Editor, Printer and Publisher of the "Aj" newspaper. The facts are not now in dispute and may be accepted as substantially set forth in the written-statement filed by the editor. On the 28th of January 1931 one Beni Ram Shukul brought a certified copy of a document purporting to be a Will of one Musammat Raj Rani and showed it to the assistant manager Sri Baldeo Das and requested him to publish it as an advertisement. Rupees 15 were paid for the costs of printing and the copy was published in the paper. We may assume in favour of the editor that the certified copy was actually shown to the assistant manager and was taken back after a copy of it had been retained in his office. The editor however does not deny that the assistant manager understood that this was a document filed in a suit pending in the Court of the Subordinate Judge of Benares, As a matter of fact the copy itself purported to have been taken from a document filed in that suit. It is also no w an admitted fact that in the proceedings relating to the substitution of names in that suit the genuineness of the alleged Will of Musammat Raj Rani was, seriously disputed by the opposite party.

2. On these facts there cannot be the slightest doubt that the whole object of publishing the Will in the advertisement column was to announce to the public that a Will of Musammat Raj Rani existed and that the contents of it were as put in the paper. The whole purpose obviously must have been to make the public believe in the genuineness of the document and to act upon it. It is obvious that

this was likely to prejudice the mind of the public against the party to the suit who was impugning the genuineness of the document. The publication undoubtedly helped to create an atmosphere in favour of the party relying upon it and adverse to them who were contesting it. If before the disposal of a pending suit in which a Will is disputed newspapers are allowed to interfere in this way with a fair administration of justice there would be a serious harm done.

3. In Oswald's Contempt of Court (3rd Edition, page 95) it is noted that "printing, even without comments, and circulating the brief, pleadings, petition, or evidence of one side only, is a contempt : and accounts of a case by notices, advertisements, or circulars, which misrepresent, or present mere ex parte statements of the case, are a contempt." The publication of this Will was in no sense the publication of a bona fide report of the proceedings of the Court. As a matter of fact it was not published as such. The editor, therefore, cannot claim a qualified privilege on that account. We are satisfied that the publication of this document if unchallenged would seriously prejudice the other party and he has a just right to complain.

4. We are satisfied that the act of the persons responsible for this paper amounted to a contempt of Court.

5. Before we pass our final order we would like to have a statement to be made on behalf of the editor, printer and publisher of "Aj" whether he is prepared to publish an unconditional apology in his paper without delay.

6. Mr. Malaviya on behalf of the editor States that the editor will be prepared to publish such an apology. Mr. Iqbal Ahmad states before us that in view of the fact that the editor has agreed to publish an apology he does not press for anything except nominal costs. We accordingly issue only a warning to Babu Rao Vishnu Pararkar the editor, printer and publisher and order him to pay one rupee as nominal costs of the applicants.