

(1997) 03 SC CK 0185

In the Supreme Court Of India

Case No : Civil Appeal No. 2601 of 1987

Brajendra Nath Bhargava (Dead) by Lrs.

APPELLANT

Vs

Ramchandra Kasliwal and Another

RESPONDENT

Date of Decision : 20-03-1997

Acts Referred:

Bar Council of India Rules, 1975 — Rule 22, 9

Citation : AIR 1999 SC 2866 : (1999) AIRSCW 2421 : (1998) 7 JT 621 : (1999) 2 RLW 199 : (1998) 9 SCC 169

Hon'ble Judges : A. M. Ahmadii, C.J;S. P. Kurdukar, J;K. S. Paripoornan, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. The appellant is the original complainant who had lodged a complaint with the Bar Council of Rajasthan, Jodhpur against the respondents who were then practising as advocates in the courts in Rajasthan. The complainant happened to be a tenant of a showroom. His landlords had filed the suit against him for arrears of rent and possession on 21-12-1974. S/Shri K.L. Saxena and Satyandra Saxena represented the plaintiffs in that suit. Later on, the two respondents appeared on behalf of the plaintiffs. A standard rent suit was filed by the landlord represented by the two respondents against the complainant bearing No. 36 of 1978 and that suit was later decreed and the standard rent was fixed at Rs 300 per month. Thereafter, it is alleged that the respondents got the showroom transferred in the name of the respondent R.C. Kasliwal's sons, Sarvshri Harshwardhan and Himanshu and Smt Ritu Kasliwal. The allegation was that the vendees were non-earning members of the family of the two respondents and were, therefore, benamidars. The two respondents continued to represent them in the suit even after the transaction. The two respondents have admitted the fact of the institution of the two suits and their being engaged as advocates for the original plaintiffs and also the fact that the property in question was purchased by the aforesaid three family members but they contended that the consideration was paid by the vendees out of their own funds.

2. After examining the facts of the case and the behavior of the two respondents as representing the original plaintiffs in the two suits, the State Disciplinary Committee came to the conclusion that it was a benami transaction as no evidence was led on record to show that the vendees had paid the consideration out of their own funds. The Disciplinary Committee, therefore came to the conclusion that there was an infringement of Rules 9 and 22 of the Bar Council of India Rules. The Committee, therefore, recorded a finding of guilt, professional misconduct and directed that the respondents be reprimanded for their action. The State Bar Council, therefore, visited the respondents with the punishment of reprimand and cost of Rs. 300.

3. Against the said finding recorded by the State Bar Council, the two respondents filed an appeal before the Disciplinary Committee of the Bar Council of India which after hearing the parties, came to the conclusion that the character of the transaction being benami was not established, that there was misconduct committed by the present respondents and that the State Bar Council was in error in visiting the respondents with the punishment of reprimand and cost. The Bar Council of India, therefore, set aside the order of the State Bar Council dated 8-9-1991 and exonerated the two respondents. That is why the original complainant has moved this Court.

4. Having carefully examined the evidence on record and the conduct of the two respondents herein and having heard the learned counsel for both the sides, we are satisfied that the conduct of the respondents was not unblemished and that they had played a part in securing the property in the name of benamidars while they were representing one of the parties to the suit. The Bar Council of India was, therefore, wrong in thinking that the conduct of the respondents was unblemished. The technical objections raised on the interpretation of Rules 9 and 22 of the Bar Council Rules, in our opinion, should not weigh because what is important is to ascertain if the respondents were guilty of misconduct and if yes, to ensure that they are visited with some penalty. The State Bar Council visited the two respondents with a mild penalty of reprimand and payment of cost quantified at Rs 300. We do not think that the Bar Council of India was justified in interfering with the order made by the State Bar Council because one thing is clear from the evidence that the two respondents had taken an active interest in getting the property transferred to the names of their relatives and practically evidence was laid to show that the consideration had come out of their funds. In a situation like this, we think that the Bar Council of India ought not to have interfered with the action taken by the State Bar Council. We, therefore, set aside the order of the Bar Council of India by allowing this appeal and direct the respondents to suffer the sentence imposed upon them by the State Bar Council,

5. In the result, we allow this appeal, set aside the order of the Bar Council of India impugned herein. We, however, make no order as to costs.