
(1940) 04 AHC CK 0004
In the Allahabad High Court

Dr. Jagdish Prasad

APPELLANT

Vs

Medical Council

RESPONDENT

Date of Decision : 18-04-1940

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9

Citation : AIR 1940 All 443 : (1940) 10 AWR 393

Hon'ble Judges : Bennet, J

Bench : Division Bench

Judgement

Bennet, J.—This is a second appeal by a plaintiff who has lost his suit in the two lower Courts partly on the ground that the Civil Court has no jurisdiction and partly on the ground that there are no merits in his claim even if the Civil Court had jurisdiction. The plaintiff is called Dr. Jagdish Prasad and he sues the Medical Council, United Provinces, Lucknow, as defendant. The plaintiff passed a F.C.P.S. examination in 1916 held by the College of Surgeons and Physicians in Calcutta, which is a private body and not a recognized University. He was previously enrolled as a licentiate of the same body. The plaintiff as a licentiate was entered in part 4 of the list of medical practitioners registered under the United Provinces Medical Act which is maintained by the medical council of the United Provinces. The plaintiff considers that he should be in part 2 and not in part 4. His F.C.P.S. was entered in the register but he was not changed to part 2. The Courts have found that he is not entitled to be entered in part 2. It is to be noted that the plaintiff is not a person who is mentioned in the schedule of the United Provinces Act 3 of 1917. As regards the bar to a suit, Section 28 states:

No suit or other legal proceeding shall lie in respect of act done in the exercise of power conferred by this Act on the Local Government or the Council or the Registrar.

2. Section 16 provides for the Council making orders for regulating the maintenance of a register of medical practitioners and Section 17 provides that the Registrar shall maintain the register in accordance with the Act and the

orders of the Council. Clearly therefore the entries made in the register are done in the exercise of the power conferred by the Act on the Registrar and on the Council. The plaintiff also appealed to the Local Government and his appeal was dismissed. Learned counsel argued that Section 28 means that the Civil Courts could review the action taken by the Registrar and the Council and consider the sufficiency of the reasons for that action. I consider that this is a wrong reading of Section 28. The words clearly bar the jurisdiction of the Civil Court altogether whether reasons were or were not given and whether those are or are not good reasons. The Civil P.C., Section 9, states that there is no jurisdiction in regard to suits of which cognizance is expressly or impliedly barred and Section 4(1) states that:

Nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, etc.

3. Clearly the Civil Courts have no jurisdiction. The second appeal is dismissed under Order 41, Rule 11. Permission is refused for a Letters Patent Appeal.