

(1998) 09 AHC CK 0015
In the Allahabad High Court
Case No : C.M.W.P. No. 11130 of 1990

Girish Pal Singh

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 02-09-1998

Acts Referred:

Uttar Pradesh Document Writers Licensing Rules, 1977 — Rule 1, 6, 6(2)

Citation : (1998) 3 AWC 2115 : (1998) RD 749

Hon'ble Judges : R.K. Mahajan, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : Dr. R.G. Padia, for the Appellant;

Judgement

Binod Kumar Roy and R. K. Mahajan, JJ.—The petitioner, a practising Advocate has come up with a prayer to quash the order dated 1.5.1990, passed by the Sub-Registrar. Dataganj. Budaun (respondent No. 4] refusing to register an agreement to sell drafted by him in the backdrop of G.O. bearing No. S.R. 75/11-90 as contained in Annexure-2.

2. Dr. Padia, learned counsel appearing on behalf of the petitioner, with reference to the statements made in Paragraph No. 6 of the writ petition contended that respondent No. 4 has completely misconceived Rule 6 (2) of the Uttar Pradesh Document Writers Licensing Rules, 1977 (hereinafter referred to as the "Rules") and thus his order is liable to be quashed.

3. Sri H. R. Misra, learned standing counsel appearing on behalf of respondents, contended that since the impugned order has been passed on the basis of the Government Order, no wrong has been committed and thereby the writ petition is liable to be dismissed.

4. Paragraph 6 of the writ petition reads thus :

"That accordingly the petitioner was engaged by one Sri Rakshpal Singh son of Sohan Pal Singh to draw up a deed of agreement to sell in favour of one Sri

Satya Prakash Gupta son of Sri Badshah Lal. The petitioner drew up the said document and in the said document itself it has been expressly written that the petitioner had been engaged to draw up the aforesaid document by the first party. The petitioner presented the said document before the Sub-Registrar, Dataganj, Budaun on 1st May, 1990. However, the said document has been rejected by the Sub-Registrar, Dataganj, Budaun, by referring to the Government Order in question, namely, 20th April, 1990 and the consequential communication made by the District Registrar to the Sub-Registrars dated 30th April, 1990. The petitioner is filing herewith a photostat copy of the said document prepared by him after having been engaged by the party concerned which contains the impugned order passed by the Sub-Registrar dated 1st May, 1990. as Annexure-1 to this writ petition."

5. Paragraph No. 8 of the counter-affidavit reads thus :

"That the contents of paragraph 6 of the writ petition only this much is admitted that the petitioner produced the agreement deed before the answering deponent which was rejected on the basis of the Government "Order dated 20.4.1990 as after enforcement of the Government Order the petitioner has been debarred from writing deed and document."

6. Thus there is no denial of the statements made in first two sentences of Paragraph 6 of the writ petition.

7. Rule 6 of the Rules reads thus :

"6. Ban against practising as document writer without licence-- (1) No person shall practise as a document writer except under valid licence granted in accordance with these rules.

(2) Nothing in sub-rule (1) shall apply where the writer of such document is one of the parties thereto or is a legal practitioner engaged by the parties for drawing up the document." (underlining ours).

From a bare perusal of the Rules, it is clear that Rule 6 (1) of the Rules, aforementioned, do not apply where a legal practitioner is engaged by a party for drawing up the document. In the Instant case, the document in question has been drawn up by the petitioner in the capacity of a legal practitioner after his engagement by the parties. The G. O. cannot override the rule aforesaid framed under the Indian Registration Act and hence wrongly invoked by respondent No. 4.

8. Accordingly, we are of the view that respondent No. 4 has committed a jurisdictional error in refusing to register the deed of agreement and that the petitioner is entitled to the relief pressed before us.

9. In the result, this writ petition succeeds in part. The impugned order of respondent No. 4 occurring at the foot of the document in question is quashed and he is directed to act in terms of Rule 6 (2) aforementioned.

10. In the peculiar facts and circumstances, however, we make no order as to cost.

11. Let a writ of certiorari and mandamus issue accordingly.

12. The office is directed to hand over a copy of this order, within one week, to Sri H. R. Misra, learned standing counsel for its communication to and follow up action by respondent No. 4.