
(1912) 11 AHC CK 0007
In the Allahabad High Court
In Re: Har Prasad Singh, Vakil

Date of Decision : 19-11-1912

Acts Referred:

Citation : 17 Ind. Cas. 539

Hon'ble Judges : Henry Richards, C.J.;Tudball, J;Chamier, J

Bench : Full Bench

Judgement

Henry Richards, C.J.—This is a Reference with regard to the alleged misconduct of one Har Prasad Singh, a Vakil practising in the Court of the Subordinate Judge at Banda. It appears that the Delhi and London Bank obtained a decree and that Har Prasad Singh was acting for the Bank. Certain property was put up to sale. The first sale proved abortive. On the same day, the property was put up a second time and portion of it was purchased by Har Prasad Singh on behalf of his father. There can be little doubt that Har Prasad Singh who was living with his father must in a sense have been interested in the purchase. He might possibly succeed and naturally he would desire to obtain as good a bargain for his father as he reasonably could. He has been reported by the learned Subordinate Judge as having contravened Rule 25 of the High Courts Rules, Chapter XV and Rule 37 of the Civil Courts Rules Chapter XXI. Rule 25 of the High Courts Rules, provides that "No Advocate, Attorney or Vakil shall, in his own name or in the name or names of any other person or persons, purchase any property or any share or interest in any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged." Rule 37 of the Civil Courts Rules is as follows: "Except in the case permitted by Clause (13) of Rule 10, no Legal Practitioner shall, at a sale in execution of a decree in a suit in which he has been professionally engaged, bid for or purchase, whether in his own or in any other name for his own benefit or for the benefit of any other person any property sold in execution of such decree.

Any Legal Practitioner contravening this rule will be held guilty of misconduct within the meaning of Act XVIII of 1879 and be dealt with accordingly.

2. It will be observed that Rule 25 differs very slightly from Rule 37, except for

the provision at the end. There can be little doubt that the evil of an Advocate, Attorney or Vakil purchasing for other persons is practically as great as if he purchased on his own behalf. It must, however, be admitted that Rule 25 is possibly open to the construction that it only prohibits purchases being made by an Advocate, Attorney or Vakil on his own behalf. There is no doubt whatever that the matter is specifically dealt with by Rule 37 of Chapter XXI of the Civil Courts Rules. There it is expressly laid down that a purchase cannot be made for any one and that the legal practitioner, which includes, of course, a Vakil, is even prohibited from bidding at the sale. It has not been seriously contended that the High Court was not empowered to make this rule under its inherent jurisdiction or u/s 15 of the Charter Act. However, having regard to the facts set forth in the affidavit, which has been filed on behalf of Har Prasad Singh, the testimonials of his previous good conduct, I think that his action in contravening the rule was either done in forgetfulness or on the spur of the moment, and I think that under all the circumstances of this particular case, it is unnecessary for this Court to take any action u/s 8 of the Letters Patent.

3. I wish to say that I hope that this will be a warning not only to Har Prasad Singh but also to other Legal Practitioners that the rules of the Court must be implicitly obeyed.

Tudball, J.

4. I agree with the Chief Justice that in the circumstances of the present case, it is unnecessary to do more than to warn the Vakil concerned. I have personally, no doubt whatsoever, that he knew he was breaking a rule of the Court, which he was bound to obey, but that he did so on the spur of the moment as he was unable to make any other arrangement for the acquisition of the property by his father. It is only in view of his character and the fact that he has only five years' experience at the Bar that I remain content with warning him and taking no further action against him. In my opinion, Rule 37 of Chapter XXI of the Civil Courts Rules and Rule 25 of the High Courts Rules, Chapter XV have practically one and the same meaning, and I should like it to be well understood by all the members of the Bar that that is so, and that the action of which the Vakil in the present instance has been guilty, was an action which in the future will not go unpunished.

Chamier, J.

5. I agree that it is unnecessary to do more than warn the Vakil in the present case. But I wish to add a few words in view of the discussion which has taken place in regard to Rule 37 of Chapter XXI of the General Rules, Civil, 1911. It has been suggested that a Vakil of this Court when practising in the Subordinate Courts is not bound by this rule. It seems to me that there is no force whatever in this suggestion. The rule applies to all Legal Practitioners practising in the subordinate Courts. Then, it was contended that this Court had no power to make such a rule. It seems to me that if statutory or legislative authority is

required to support this rule, it is to be found in Section 15 of the Indian High Courts Act, 1861. But whether the rule is valid or not as a rule, it has been in existence for about 30 years and it shows that for that period this Court has considered that conduct of the kind now in question is most objectionable and will be dealt with as misconduct under the Legal Practitioners Act. I am of opinion that the rule contains a most salutary provision and that serious notice should be taken of any deliberate disregard of it. In the present case, I am prepared to accept the affidavit of the Vakil that he acted on the spur of the moment and in view of his previous good character, I agree that no further action need be taken.

6. Let the papers be filed.