
(1997) 07 AHC CK 0136
In the Allahabad High Court
Case No : Writ Petition No. 1667 (M/S) of 1994

Ram Harsh Yadav

APPELLANT

Vs

District Registrar, Rae Bareli & Others

RESPONDENT

Date of Decision : 03-07-1997

Acts Referred:

Citation : (1997) 07 AHC CK 0136

Hon'ble Judges : S.H.A.Raza, J

Final Decision : Allowed

Judgement

S.H.A. Raza, J.

1. The petitioner who was a deed writer, working at SubRegistrar, Office, Mahrajganj, District Rae Bareli, was granted a licence in the year 1976, which was renewed from time to time. On 20th of March, 1993 the petitioner again applied for the renewal of his licence for writing deeds for the period commencing from 1.4.1993 to 31.3.1994, which was forwarded by SubRegistrar, Mahrajganj to the District Registrar, Rae Bareli on the same date with his recommendation for the renewal of the licence. A note to this effect with the signature of respondent no. 2 finds place in the said application, which has been annexed as annexure No. 1 to the Writ Petition.

2. On 12.3.1993 a show cause notice was issued to the petitioner as to why his licence as scribe may not be cancelled and his licence was suspended with immediate effect. The said notice was served upon the petitioner on 17.3.1993.

3. No counter affidavit has been filed in the said writ petition. It is not at all clear as to why when the show cause notice was issued to the petitioner on 12.3.1993 and his licence was suspended, his application was recommended by the Registrar on 20.3.1993. The said show cause notice indicated that the petitioner had used a stamp paper of Rs. 3,000, irregularly/or fraudulently in the sale deed executed on 8.2.1993 by one Shri Laxmi Narain alias Buchunu in favour of Mohan Singh, minor son of Ram Lakhan Singh and Shivendra Pratap Singh,

minor son of Lal Bahadur Singh after obliterating the previous writing on the stamp paper by ink remover. It was mentioned in the show cause notice that thus the petitioner has actually assisted in causing the loss of Rs. 3000 to the State Exchequer. On 23.3.1993 the petitioner appeared before the District Registrar and filed a reply to the show cause notice mentioning therein that the petitioner scribed the sale deed on a stamp paper which was given to him by the party concerned. He did not use stamp paper after obliterating any previous writing on the stamp paper by the inkremover because he was not at all required to obliterate the previous writing. He could have scored out the writing, making a note to that effect in the last stamp paper of the deed, under the signature of the vendor. It was alleged that there might be a conspiracy between the vendor of the sale deed and stamp vendor. He further averred that after the deed was scribed by the petitioner on 8.2.1993, it was placed before the SubRegistrar opposite party No. 2, where the vendor of the sale deed admitted the execution of the sale deed. The stamp papers were seen and checked by the SubRegistrar the opposite party no. 2 and his assistants. Nothing was found by the SubRegistrar regarding obliteration of the previous writing on one of the stamp papers used in the sale deed. It was submitted that no evidence was made available to the petitioner alongwith the notice and the petitioner will file his final reply after he is provided with the documentary and oral evidence said to be adduced against him. He also requested for a personal hearing in the matter.

4. On 7.4.1993 it was alleged that opposite party No. 1 asked the petitioner to file evidence to the effect that the petitioner had written a sale deed on 8.2.1993 executed by Laxmi Narain alias Buchunu in favour of Mohan Singh and Shivendra Pratap Singh the minors and he has committed no mistake knowingly while writing the same. In future he will write the deeds only after making full enquiry. The affidavit was accordingly filed.

5. It was alleged in the writ petition that although the statement of Rama Nand Tewari the stamp vendor and Ram Lakhan was recorded by the District Registrar but the petitioner was not given the opportunity of cross examining them.

6. The petitioner was served with another notice on 4.6.1993 alongwith an anonymous complaint purporting to have been given to the Registrar General of U.P. at Allahabad, which was sent to the District Registrar for enquiry. The petitioner also filed a reply against the second notice.

7. According to the petitioner the said sale deed was written by the petitioner on 8.2.1993, which was executed by Laxmi Narain alias Buchunu in favour of Mohan Singh minor son of Ram Lakhan Singh and Shivendra Pratap Singh minor son of Lal Bahadur Singh on six stamp papers. The first two stamp papers were of Rs. 3,000 each and the last four stamp papers were 9 Rs. 500 each. All these stamp papers were sold by Rama Nand Tewari stamp vendor at Mahrajganj on the same date i.e. on 8.2.1993. The said stamp papers were given to the petitioner by the vendor and the guardians of the vendees. The first stamp paper worth Rs. 3,000

was purchased in the name of Ram Lakhan Singh, the guardian of the minor vendee Mohan Singh and the second stamp paper worth Rs. 3,000 was purchased in the name of Laxmi Narain the vendor. The obliteration of the previous writing is said to be with regard to second stamp paper worth Rs. 3,000 purchased in the name of Laxmi Narain the vendor of the sale deed, who was not examined by the District Registrar. The petitioner further averred that Shri Rama Nand Tewari the stamp vendor was authorised to sell the stamp paper not exceeding the aggregate value of Rs. 5,000 for one instrument under Rule 152 of Chapter 4 of United Provinces Stamp Rules, 1942. Still he sold stamps worth Rs. 8,000 for execution of one instrument. In the sale register on 8th of February 1993 at Serial No. 6529 one stamp paper worth Rs. 3,000 was sold in favour of Laxmi Narain alias Buchunu the vendor and at Serial No. 6530 and 6531 two stamp papers worth Rs. 500 each was sold in same Laxmi Narain, who puts his signature but in the register a thumb impression is made. At serial No. 6532 stamp paper worth Rs. 70 was sold in the name of Pitai son of Baiju. At Serial No. 6533, a stamp paper worth Rs. 3,000 at Serial No. 6534, stamp paper worth Rs. 500, at serial No, 6535 a stamp paper worth Rs. 500 was sold in favour of Ram Lakhan Singh son of Mahadev Singh. The stamp paper no. 2 worth Rs. 3,000 used in the sale deed was issued from the Treasury in December, 1992, but was sold by the stamp vendor on 8.2.1993. Whereas the stamps issued in 1993 from the Treasury were sold by the stamp vendor prior to 8.2.1993.

8. It was submitted that the Registrar arbitrarily cancelled the licence of the petitioner to work as the deed writer in the office of Sub Registrar, Mahrajganj, district Rae Bareilly. The Registrar committed the manifest error of law in relying upon the uncross-examined statement of Rama Nand Tewari the stamp vendor as gospel truth though the register maintained by him spoke volumes against him and his conduct as a stamp vendor. It was submitted that the non-examination of Laxmi Narain, who purchased the stamp papers vitiated the entire enquiry proceedings. Even Ram Lakhan did not state that the petitioner wrote the sale deed after obliterating any previous writing. The District Registrar in his order dated 13.9.1993 stated that the petitioner appeared before him on 22.3.1993 and admitted his writing on the stamp paper but denied that he has obliterated. The parties after obliterating the earlier writings had given the stamp papers to him for writing. The register of Rama Nand Tewari, the stamp vendor was summoned and his statement was recorded, who stated when the stamp papers were purchased there existed no obliteration. The purchasers of the stamp papers were also summoned but only Ram Lakhan Singh appeared before him and his statement was recorded, who stated that he came to the Tehsil for the execution of sale deed. At 10 a.m. Munsif Ram Harsh met him and asked him that the stamp papers worth Rs. 8,000 would be required. Thereafter he went to Rama Nand Tewari the stamp vendor, who gave him stamp worth of Rs. 8,000. Out of that stamp papers of Rs. 4,000 were in the name of Laxmi Narain and stamp papers of Rs. 4,000 were in his name. But the entire money was given by Shri Ram Lakhan Singh. He also stated that he put his signatures on the register

but did not know as to whether he put his signature on the stamp papers of Rs. 4,000 or Rs. 8,000. All the stamp papers were given to the petitioner by Rama Nand Tewari. After seeing the stamp paper worth of Rs. 3,000 he stated that he did not obliterate the writing.

9. In the order the District Registrar also indicated that the petitioner appeared before him and stated that on stamp paper worth of Rs. 3,000 the writing was obliterated but it was not done by him and he did not commit any mistake.

10. From the aforesaid statement the District Registrar concluded that the petitioner admitted the fact of obliteration on the stamp paper and the petitioner failed to produce any evidence from which it could be understood that if he would have not obliterated then why he admitted that while writing the deed on the stamp paper of Rs. 3000 he had not committed any mistake and in future he would be vigilant and would scribe the deeds after necessary enquiries. This shows that he obliterated the writing on the stamp paper and the name of other persons. More or less on the same ground the review or appeal of the petitioner was dismissed by the Inspector General of Registration, U.P., Allahabad preferred by the petitioner.

11. No counter affidavit has been filed inspite of opportunity given to the respondents and on 22.12.95 this case was heard. After hearing the counsel of the petitioner and the learned counsel of the respondents judgment was reserved.

12. I am of the view that the manner in which the inquiry was conducted did not inspire any confidence. The District Registrar as well as Inspector General of Registration has relied on the uncrossexamined statement of Rama Nand Tewari and Ram Lakhan Singh. There is nothing on the record to indicate that the petitioner was given an opportunity to crossexamine S/Shri Rama Nand Tewari and Ram Lakhan Singh and he did not crossexamine them. On the contrary it has been averred in the writ petitioner itself that the uncross examined statement of witness could not be relied upon against the petitioner. Further more the court below wrongly drew the conclusion from the statement of delinquent petitioner. The petitioner had denied the factum of obliteration by him on the stamp paper. His statement that he would be vigilant and would scribe the deeds on the stamp paper after making all necessary inquiries, does not mean that he accepted his guilt. It was incumbent upon the departmental authorities to prove the guilt of the accused beyond any shadow of doubt. But in the present case the charges were not proved. One of the purchaser of the stamp paper; Laxmi Narain, was not even examined by the Registrar. The mere denial of the stamp vendor that he did not obliterate the writing on the stamp paper would not shift the guilt on the petitioner because such things might have been done either by the stamp vendor or any other person. It was also the duty of the SubRegistrar as well as his subordinates to have inspected the stamp papers at the time of execution of the sale deed. But the sale deed was executed by the Registrar. Inference can also be drawn that at the time of execution of the sale deed the stamp paper was not obliterated otherwise the SubRegistrar would have noticed the same. The

mischievous might have been done after the execution of the sale deed. It may also be assumed that the petitioner was wrongly implicated as no inquiry was initiated against the SubRegistrar for being careless in executing the sale deed on stamp paper where writing was obliterated by ink remover and another writing was substituted on the stamp paper. The Registrar and the Inspector General also ignored the possibility that the stamp vendor himself could have obliterated the writing as he sold the stamp paper worth of Rs. 8,000 while under Rules he could have not done so, but nothing was said against the stamp vendor. There appears to be no reason as to when on 12.3.1993 the petitioner was served with a show cause notice by the District Registrar as to why licence, as scribe be not cancelled and his licence was suspended, but about 8 days thereafter i.e. on 20.3.93 the SubRegistrar recommended his application for the renewal of the licence of the petitioner for the year 1993-1994. There is nothing on the record to indicate that the SubRegistrar had no knowledge about the issuance of the show cause notice to the petitioner by the District Registrar. If the SubRegistrar had derived the knowledge of issuance of show cause notice to the petitioner, there existed no justification for his remarks on the renewal application. An inference can be drawn that he was not satisfied about the allegation against the petitioner.

13. As in the present inquiry the principle of natural justice was violated in as much as the petitioner was not given an opportunity to cross-examine the witness and wrong conclusions were drawn from the statement made by the petitioner, I am satisfied that the inquiry was vitiated and the impugned orders dated 13.9.93 and 27.6.94, passed by the District Registrar and Inspector General of Registration respectively deserve to be quashed.

14. In view of what has been stated hereinabove the petition succeeds, the order dated 13.9.93, passed by the District Registrar, Rae Bareilly and the order dated 27.6.94, passed by the Inspector General of Registration, U.P. at Allahabad, annexed with writ petition as annexure No. 9 and 12 respectively are quashed. In the circumstances of the case there would be no orders as to costs.