courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 15/09/2026

(1986) 01 P&H CK 0021

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 2182 of 1981

S. Maharaj Baksh Singh — APPELLANT

Vs

Charan Kaur and Others — RESPONDENT

Date of Decision : 07-01-1986

Acts Referred:

Citation : AIR 1987 P&H 213 : (1986) 90 PLR 179

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

1. Negligence being imputed to counsel for his failure to appear in Court on the date fixed is what is now sought to be expunged.

2. In a matter arising out of a motor accident, Mar. 20, 1980 was the date fixed by the Motor Accident Claims Tribunal for the recording of evidence of some respondents. No one appeared on behalf of any of the respondents on that date nor was any witness summoned or present. The Tribunal accordingly closed the evidence of the respondents and finally disposed of the case by awarding compensation to the claimants.

3. Later the respondent Insurance Company sought the setting aside of the award on the plea that their counsel Mr. Maharaj Baksh Singh, the petitioner here, could not appear as the Bar Association (namely that of the High Court of Punjab and Haryana, of which he was a member) had passed a resolution calling upon all its members to observe solidarity day by abstaining from Court on that date i.e. Mar. 20, 1980.

4. The Tribunal after noting that counsel had not informed the party concerned of his inability to attend Court on that day, observed "by not informing the parties the counsel acted gross negligently in absenting in the case." The Tribunal further went on to observe, "it is a case of contumacious negligence on the part of the counsel, who though present in the town, decided to remain away from the Court deliberately and intentionally. If an advocate behaves in such a manner

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/s-maharaj-baksh-singh-appellant-…

he may bc responsible to his client for the result of the case." Expunction of these remarks is the relief claimed here.

5. It was no negligence, argued the counsel for the petitioner, for an advocate to abstain from appearing in Court in response to a call to that effect by the Bar Association of which he was a member. The impugned remarks were thus not warranted.

6. To test validity of the view canvassed it must be considered in both its aspects namely from the point of view of law and established procedure as also in the context of the role of counsel towards the Court and those they represent.

7. As is well known, counsel appearing in Court a special position. There is a duty owed to the Court as also an obligation to the party they represent. In neither can they afford to falter. As was observed I. D. Dua, J. (as Judge of this Court) in Karam Singh v. State of Punjb ILR (1966) 2 Punj 609:

".....The profession of law enjoys a high and respected status and reputation in our Republic, but this status also carries with it a corresponding necessary obligation which, to an extent, partakes of fiduciary character. The client places in his lawyer full and implicit faith for representing the former and looking after and protecting his interest in the litigation in the Court. Indeed by fiction, lawyer is understood to embody his client in his own person and the Courts traditionally address the lawyer in Court proceedings as if he is the client himself present in Court. This traditional mode of address is symptomatic of and the fiction underlying it vividly represents, the close relationship of confidence between the client and his lawyer in respect of the Court proceedings, for the conduct of which the lawyer is engaged. The lawyer has, therefore, a solemn obligation to take all reasonable care to look after his client''s interest and, from one point of view, to represent the client''s case as if it is the lawyer''s own case."

8. As members of the Bar lawyers no doubt, have their importance and role in society too and cannot, therefore, be expected to stand mute to the events and happenings around them, but as right thinking members of the society they cannot be expected to countenance any action on their part which could in any manner compromise their duty to the Court and the responsibility they bear towards those they 1966) 2 Punj 609) (supra).

" The profession of law, it may always be borne in mind is not a trade or business, far less a mere money making trade or business, on the other hand, it is an honourable profession which occupies a peculiarly privileged and respectable place in our legal State."

9. Counsel abstaining from appearing in Court cannot, therefore, but be construed as being contrary to the manner and norms of this great and noble profession. Laws as Justice Holmes so aptly put it is "a calling of thinkers." The weapon of the Bar has thus always been reason and reason is never of more telling effect than when expressed with dignity wrapped in humility.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/s-maharaj-baksh-singh-appellant-…

10. As regards the position in law there can be no manner of doubt that there is no provision there for a Court working day to be deemed to be holiday if members of the Bar decide to stay away from appearing in Court. In other words, Courts are duty bound to proceed according to law and the procedure prescribed, regardless of the absence of counsel, of course, taking due note of it wherever relevant and following it up by necessary consequential action, as may be deemed appropriate.

11. Such being the law the role of counsel towards the Court and their clients, when counsel decide to refrain from appearing in Court, they do so at their own peril, as of'' course, also that of the party they were to appear for. No wonder the accusing finger of negligence would stand pointed at them, if they deliberately keep away from court and allow their party''s interest to suffer by their default. Courts cannot, therefore be faulted for imputing negligence to counsel on this account.

12. Turning to the instant case, considering this was the first such lapse on the part of the petitioner, a young lawyer on the threshold of his career, the impugned remarks deserve to be waived lest they operate to his prejudice in the profession in the years to come. A consequence not really warranted by this solitary omission on his part. They are accordingly ordered to be expunged. This shall not, however, have any effect upon the merits of the case in which they were made. With these observations, this petition is hereby accepted. There will, however, be no order as to costs.

13. Order accordingly.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/s-maharaj-baksh-singh-appellant-…