
(1998) 08 AHC CK 0116
In the Allahabad High Court
Case No : C.M.W.P. No. 9226 of 1990

Shailendra Kumar

APPELLANT

Vs

District Registrar (Indian Registration Act) and another

RESPONDENT

Date of Decision : 19-08-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Registration Act, 1908 — Section 69(1)

Uttar Pradesh Document Writers Licensing Rules, 1977 — Rule 15, 16, 16(1), 16(2), 2

Citation : (1998) 4 AWC 396 : (1998) AWC 396 : (1998) RD 692

Hon'ble Judges : B.K. Sharma, J;B.K. Roy, J

Bench : Division Bench

Advocate : S.K. Verma, for the Appellant;

Final Decision : Dismissed

Judgement

B. K. Roy and B. K. Sharma, JJ.—The prayer of the petitioner, who is a licensed document writer as defined under Rule 2 (c) of the U. P. Document Writers Licensing Rules. 1977 (hereinafter referred to as the Rules for the sake of brevity) framed u/s 69(1)(hhh) of the Indian Registration Act, 1908, is to quash the order dated 17.3.1990 of the District Registrar. Deorla (as contained in Annexure-3) cancelling his licence with Immediate effect.

2. A perusal of the impugned order shows following facts :

(i) The D.I.G. of Police (Special Investigation) U. P., Lucknow apprised while dispatching copy of the Report dated 6.2.1998 of the Deputy Superintendent of Police (Special Investigation), Lucknow that in the sale deed executed by Indra Deo Harijan in favour of Abid Ali Ansari on 5.9.1987 in regard to 1.60 acres of land of Gata No. 173 of Village Jairam Kaurtya. P.S. Salempur. District Deoria, which was registered, scribed by Shailendra Kumar (the writ petitioner) who was also its witness and has stated that he personally knew the vendor, it has been mentioned that the vendor Indra Deo is not Scheduled Caste/Scheduled Tribe

while he is Scheduled Caste and deliberately suppressing this fact he had made incorrect statements and thereby, lands belonging to Scheduled Caste has been sold without taking permission of the Collector of the District.

(ii) A notice was Issued to the petitioner to show cause as to why for his aforementioned act, his licence be not cancelled.

(iii) In his show cause dated 27.2.1988 the petitioner stated, inter alia, that he knew Indra Deo from before but was not knowing his caste ; that Abid Ali Ansari is a respectable person ; that after knowing facts from him and Ram Pyarey Lekhpal Tehsil Salempur. he had become witness of the aforesaid document ; and that deliberately he had not given incorrect evidence.

(iv) The aforesaid explanation of the petitioner was not accepted to be reliable on the following grounds :

(a) In view of the fact that he admitted knowing Indra Deo from before his defence of not knowing his caste was disbelieved ; and

(b) He had given his evidence in his personal capacity for which he is personally responsible, though it may be that he may have given evidence on someone's asking.

(v) Abid Ali Ansari fraudulently got the sale deed executed in regard to the land of a person belonging to Scheduled Caste by suppressing facts and without permission of the Collector of the District which the petitioner supported by giving false evidence and thereby acted contrary to Rule 16 (c) of the rules and accordingly his licence is being cancelled with immediate effect.

3. While admitting this writ petition on 12.4.1990 on the stay application filed by the petitioner, it was ordered that "Till further orders, the operation of the order dated 17.2.90 shall remain stayed."

The Submissions :

4. Sri S. K. Verma, learned counsel appearing in support of the rule, contended as follows :

(i) "A deed writer only scribes certain documents as told by the executor. His function is like that of a typewriter. Since the typewriter cannot be held guilty of any mistake of an illegal act of the executor, so is the case of the scribe. No guilty intention can be attributed to the petitioner."

(ii) "The petitioner has only identified the persons concerned and has himself not stated that the vendor does not belong to Scheduled Caste. In his explanation which is Annexure-2 also he has merely stated that he knew the executor which does not mean that he also knew his caste. It was the bounden duty of the Registrar to enquire as to whether the executor belonged to Scheduled Caste or not, who being satisfied that the executor had executed the document had registered the document but without verifying his caste and this omission cannot

shift his guilt on the petitioner- In these circumstances, the cancellation of the licence was not called for."

(iii) "Annexures-5 and 6 are the sale deeds executed by Indra Deo through Keshav Prasad Singh-the deed writer wherein also it was stated that he does not belong to Scheduled Caste and nothing has been done to that deed writer who had scribed the sale deeds and as such, taking action against the petitioner, only Is violative of Article 14 of the Constitution of India."

(iv) "Since the petitioner continued on the basis of the interim order and the Court deemed it fit that the petitioner was to continue as a deed writer then It shall be against the interest of justice If the impugned order is upheld."

(v) "Since after 1990 till today the petitioner continued to be deed-writer without any further action, then if anything is found against him in the year 1990, the same may be overlooked and waived."

5. Mrs. Sarita Singh, the learned standing counsel appearing on behalf of the respondents contended that the arguments are not tenable many of which are not based on the pleadings.

Our findings :

6. In our view, the submissions made lack substance and cannot be accepted. We will not be justified in making the Interim rule absolute in favour of the petitioner unless we find the impugned order to be erroneous. The petitioner cannot take advantage of the Interim order as we do not find any flaw in the impugned order. The petitioner has not brought on the record the report dated 6.2.98 of the Dy. S. P. or the Note of the D.I.G. of Police referred to and relied upon in the Impugned order.

7. Rules 15 and 16 of the rules are as follows :

"15. Every document writer who ceases to work, as a document writer or whose licence is cancelled or suspended under these rules, shall-forthwith surrender his licence to the licensing authority.

16. Cancellation of licence.--(1) The licensing authority may at any time suspend or cancel the licence of a document writer on any of the following grounds, namely :

(a) breach of any of these rules or conditions of licence ;

(b) failure to attend the registration office for a continuous period exceeding one month without the permission of the licensing authority or the Registering Officer ;

(c) for being guilty of participation in any illegal transaction or unfair dealings with public servants In the Registration Department ;

(d) for being found negligent or inefficient in his work or dishonest in his dealings

with the public ;

(e) for being convicted by a Court for an offence involving moral turpitude ; and

(j) for any other sufficient cause to be recorded in writing.

(2) No order under sub-rule (1) shall be passed, unless the document writer has been given an opportunity of being heard in his defence,"

[The words "guilty of participation in any illegal transaction" and "unfair dealings" are words of widest amplitude. The petitioner claimed to know the vendor from before which apparently included the factum of knowing his caste as well and thus, it was unfair on his part in not disclosing that fact to the Registrar, who is undisputedly a public servant, at the time of presentation of the sale deed. etc. There is presumption of correctness and regularity of the official acts. The Registrar at the time of registration of the sale deed in question must have" ascertained the correctness of the facts stated in the sale deed from the concerned persons before its registration by asking questions. We, accordingly, presume that the Registrar at the time of registration must have enquired from the petitioner also as to whether he is the deed-writer of the sale deed and whether he is a witness or not. We further presume that the petitioner must have supported the facts mentioned in the sale deed before the Registrar. Therefore, the submissions of Mr. Verma that Registrar was at fault and that the intention of the petitioner was lacking are of no substance. On inquiry the fraud played by the vendor, vendee, the deed-writer-cum-witness all have come to surface. It has been rightly observed that in view of the backdrop that the petitioner knew the vendor from before, it cannot be presumed that he was not aware of the caste of the vendor. The petitioner has not adduced any material to support his defence that he was not knowing the caste of the vendor from before, etc. It is not his case either in the writ petition or even before us that he was not given an opportunity of being heard in his defence as contemplated under Rule 16 (2) of the rules.

8. It is not the case of the petitioner in the writ petition that he was a Typist-Document Writer, subscribing deeds through a typewriter. What he has stated in the writ petition that by this time, he has written thousands of documents. The illustration is wholly inapt. A typewriter is required to be made operational by a man. Unless a deed writer understands the whole intention of the vendor, it is not expected that he will write/type sale deed. He also by and large firstly prepares a draft, consults the vendor and vendee and then prepares a final draft which is being presented by the vendor before the Registration Authority for its Registration.

9. It is not his case in the writ petition that the observations made in the order impugned are vitiated on account of misreading of materials or errors of record. It is not within the domain of this Court, while exercising its jurisdiction under Article 226 to appraise the evidence or materials adduced by one or the other party. To support his case set up in his show cause (Annexure-2) that on the day

of execution of the sale deed, he had put a question to the vendor earlier as to whether he is harijan, he was told by him (the vendor) that he is not Harijan, no material was adduced by him. It cannot be said that the findings are vitiated on the ground that no reasonable man could have arrived at the same conclusion as it has been done by the authority concerned.

10. It is true that in relation to earlier two sale deeds, no action under the rule aforementioned has been taken against their scribe Keshav Prasad Singh but that cannot be a handle in the hands of the petitioner to take recourse to falsehood before the authority concerned. The petitioner cannot take advantage of non-action against the scribe Keshav Prasad Singh of the documents appended as Annexures-5 and 6 and invoke Article 14. We also notice that the scribe of those deeds was not a witness whereas in the instant case, the petitioner was not only the scribe but also a witness.

11. It cannot be said also that there was an unreasonable delay in regard to the initiation of the proceedings. The sale deed was executed on 3.9.1997 whereas the show cause was issued on 20.2.1988. Apart from this factual position, the rules do not provide a period of limitation under which an action under Rule 16 is required to be taken.

Our conclusion :

12. For the aforementioned reasons, we do not find any merit in this writ petition. It is, accordingly, dismissed with costs, quantified to Rs. 2,000.

13. The petitioner is directed to forthwith surrender his licence to the licensing authority in terms of Rule 15 of the rules.

14. The rule is discharged accordingly.

15. The office is directed to handover a copy of this judgment by tomorrow to Mrs. Sarita Singh, the learned standing counsel, for its communication to and follow-up action by the respondents.