

(1992) 07 AHC CK 0017

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 1152 of 1991

Suraj Chandra Gupta and Another

APPELLANT

Vs

District Registrar/Addl. District Magistrate (Revenue and Finance) and Others

RESPONDENT

Date of Decision : 21-07-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Registration Act, 1908 — Section 69(1), 72, 73

Uttar Pradesh Document Writers Licensing Rules, 1977 — Rule 2, 6, 6(1), 6(2), 7

Citation : (1992) 3 AWC 1557 : (1992) RD 427

Hon'ble Judges : S.D. Agarwala, J;M. Katju, J

Bench : Division Bench

Advocate : Prakash Gupta and S.C. Gupta, for the Appellant;

Final Decision : Allowed

Judgement

S.D. Agarwala, J.—This is a petition under Article 226 of the Constitution of India. The Petitioners are Advocates who practise at Jaunpur. They have challenged the Government order dated 20th April, 1990 which was signed by the Joint Secretary on 12th November, 1990 and communicated on 7th December, 1990. By the impugned order the Government has prohibited the Advocates who have written deeds to present the same before the Registering Officer.

2. u/s 69(1) of the Registration Act, 1908 the Inspector General of Registration with the approval of the State Government made rules regarding licensing of the document writers in Uttar Pradesh. These rules are named as Uttar Pradesh Document writers Licensing rules, 1977. These rules came into effect from April 1, 1977 but so far as Rules 6 and 7 were concerned, they came into effect from 1-5-1977.

Section 2(b) of the rules defines the word "document". It has been defined as follows:

"Document" means a document written for presentation to a registering officer and includes an application for copy, inspection, search, extension of period and issue of summons of warrants and an application u/s 73 or a memorandum of appeal u/s 72 of the Registration Act, 1908 or a draft of the document:

Section 2(c) defines who is the "Document writer". It is defined as follows:

(c) "Document writer" means a person practising as a writer of documents, for remuneration or otherwise;

3. From the above two definitions it is clear that a document under the rules means a document written for presentation to a registering officer. The fact that a document is written implies itself that such a document will be written for the purposes of presentation to a registering officer.

Rules 6 and 7 which are also relevant for the purposes of the decision of this case are quoted below:

6. Ban against practising as document writer without licence: (1) no person shall practise as a document writer except under a 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 pleader engaged by the parties for drawing up the document.

7. Non acceptance of document at registration office--Documents written by a person other than a person holding a valid licence or a person mentioned in Sub-rule 2 of Rule 6 shall not be accepted in any registration office.

4. Rule 6 clearly lays down that no person shall practise as a document writer except under a valid licence granted in accordance with these rules. To this provision an exception has been carved out in Sub-rule (2) of Rule 6 namely that the question of obtaining a licence does not arise where the writer of the document is pleader engaged by the parties for drawing up the document. It is, therefore, clear that in so far as the pleader is concerned, it is always open to a party to engage a pleader for drawing up the document. Rule 7 further provides that the document written by a person other than a person holding a licence or a person mentioned in Sub-rule (2) of Rule 6 shall be accepted in any registering office. This clearly means that the document shall be accepted only when the said document is written by the judgment writer or by a pleader under Sub-rule (2) of Rule 6. In the circumstance, on a reading of Rules 6 and 7 it is absolutely clear that the document written by a pleader could be presented by him before the registering officer. The view to the contrary taken in the Government order dated 20-4-1990 which is the subject matter of challenge in this petition is manifestly erroneous. We, therefore, clearly hold that a Pleader who has been engaged by a party to write a document is entitled to present the same before the registering officer. An advocate registered under the Advocates Act is also in present context a pleader and consequently he is also entitled to write a

document in case a party engages him to write a document and present the same.

5. The petition is, accordingly, allowed, and the Government order dated 20-4-1990 signed on 12-11-1990 is quashed.

6. The Registrar is directed to send a copy of this Judgment to the Inspector General of Registration, U.P. for circulation to all the registering officers of the State of Uttar Pradesh.

7. There is no order as to costs.