

2023 LiveLaw (SC) 635

**THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

ABHAY S. OKA; J., SANJAY KAROL; J.

Civil Appeal No(s). 14083-14084/2015; July 27, 2023

MR. LAXMAN BAPPAJI NAIK (DEAD THROUGH LRS) versus RANJEET @ RANU YADAV DOKH & ANR.

Advocates Act, 1961; Section 35 - Professional Misconduct - Advocate did not disclose that his wife was the opposite party in the property dispute case taken up by him - Upheld the decision of the Bar Council of India to suspend the license - Advocate's son, who was assisting his father as his junior colleague, was let off with an undertaking that he won't commit any misconduct in future.

WITH Civil Appeal No. 725/2016

For Parties: Petitioner-in-person Mr. Sanjay Kharde, Adv. Mr. A. Karthik, Adv. Mr. Arsh Khan, Adv. Mr. Sunil Kumar Verma, AOR Mr. Gopal Jha, (AOR)Amicus Curiae) Mr. Amol B. Karande, AOR Mr. Shiv Sagar Tiwari, AOR Ms. Aakanksha Tiwari, Adv. Ms. Ruby Mohd.wasim, Adv. Ms. Radhika Gautam, AOR

J U D G M E N T

These appeals arise out of the exercise of Disciplinary Jurisdiction by the Bar Council of Maharashtra and Goa.

Disciplinary proceedings were initiated against the two Advocates at the instance of the appellant (the complainant) in Civil Appeal Nos. 14083-14084/2015. For the sake of convenience, we are referring to the Advocates as A-1 and A-2.

When the complaint was made, A-1 had put in many years at the Bar. A-2 is his son who was in practice approximately for about a year when the alleged misconduct was made.

The complainant was a client of the A-1 and A-2. The allegation made in the complaint filed by the complainant was that A-1's wife on the basis of a document dated 04.02.1994 was claiming right, title and interest in the property subject matter of the case in which the appellant-complainant had appointed the A-1 and A-2 as advocates. It is further pointed out that it is an admitted position that in various proceedings, A-1 and A-2 continued to appear for the complainant till 18th March 2004. Moreover, on 16.03.2006, A-1's wife filed a suit based on the said document of February 1994 against the complainant. The proceedings arising out of the said suit are still pending.

After a full-fledged inquiry, the Disciplinary Committee of the Bar Council of Maharashtra and Goa came to the conclusion that both A-1 and A-2 were guilty of professional misconduct. The Bar Council of Maharashtra and Goa found that:

- (1) A-1's wife had entered into a sale transaction in respect of a number of properties which are the subject matter of litigation in which A1 and A2 appeared as Advocates on behalf of the complainant;
- (2) A-1 and A-2 did not disclose this material fact to the complainant when he engaged them as his advocates;
- (3) It is not the case of A-1 and A-2 that they had disclosed the said vital fact to the complainant when they were appointed by the complainant. But their case is that he was aware of the same; and

(4) Notwithstanding the fact that an immediate family member had a personal interest in the subject property, both of them continued to represent the complainant till 2004 in litigation pertaining to the same property.

Therefore, an Order was passed to suspend A-1 from the roll of Advocates for a period of two years and A-2 was reprimanded for professional misconduct.

There were appeals preferred by both the parties which have been decided by the impugned judgment and order by the Bar Council of India. While confirming the penalty imposed by the Bar Council of Maharashtra and Goa, by the impugned judgment, a direction was issued to the A-2 to give an Undertaking to the State Bar Council that he would not indulge in any professional misconduct in future. He was directed to do so within a period of two weeks. The Bar Council of India directed A-1 to pay costs of Rs.50,000/- to the complainant and to deposit a sum of Rs.50,000/- with the Advocates' Welfare Fund Account of the Bar Council of India.

The submission canvassed across the Bar by A-1 and A-2 is firstly that the complainant was fully aware about the existence of the document of February 1994 in favour of A-1's wife and only with that knowledge, he had engaged both of them. The second submission is that when the alleged misconduct happened, A-2 had completed only one year of practice and in any case, he had no knowledge about the documents executed in February 1994 in favour of his mother. Thirdly, it is submitted that the order of reprimand is also a penalty under sub-section 3 of Section 35 of the Advocates Act, 1961¹. Lastly, it is submitted that the order directing an Undertaking to be given by A-2 is very harsh and illegal.

The learned counsel appearing for the original complainant urged that in fact, A-2 had indulged in acts of forgery and, therefore, there was no reason to lightly let off A-2 and he should have been also subjected to a penalty like the one which was inflicted on A-1.

On the last date, the learned counsel appearing for the A-1 and A-2 stated that A-1 has already given up his legal practice and he will give an undertaking not to resume practice. Accordingly, an affidavit dated 22.07.2023 has been filed by A-1 in which he has stated that he has given up his legal practice in the year 2016 and that he shall not resume his legal practice in future. In view of this Undertaking, now nothing survives in the appeal preferred by the complainant in so far as A-1 is concerned.

Now coming to the case of A-2, it is true that the misconduct alleged against him is the same as alleged against A-1. As regards the allegations of forgery, we find that in the complaint made to the State Bar Council, there was no such allegation made against him. In any case, the Bar Council in Disciplinary proceedings could not have gone into the question whether there were acts of forgery committed by A-2.

The State Bar Council has taken a lenient view as far as A-2 is concerned. The reason is that he had put in only one year of practice and that only as a junior colleague of his father A-1, he was appearing in the cases in which the complainant had engaged A1. Nevertheless, the Bar Counsel has reprimanded the A-2 by exercising the power under Clause (c) of sub-Section (3) of Section 35 of the Advocates Act, 1961. It is true that reprimand is also one of the penalties. But it is impossible to accept that A-2 had no knowledge about the personal interest of his mother in the subject property. We, therefore, find no error in the view taken by the State Bar Council as well as by the Bar Council of India as regards the penalty imposed on A-2 is concerned.

¹ The 1961 Act

The submission made by the complainant to impose a graver penalty on A-2 also deserves to be rejected since A-2 was in practice only for one year at the relevant time and he was assisting his father(A-1) as his junior colleague.

As regards the Undertaking to be given by A-2, we find that the Undertaking needs to be worded differently. The Undertaking should be that A-2 shall maintain the highest professional standards and shall abide by the Rules of Ethics framed by the Bar Council. Giving such an Undertaking will suffice the purpose.

The learned counsel appearing for the A-1 states that a sum of Rs.50,000/- has been credited to the account of the complainant. He further states that a sum of Rs.50,000/- will be paid to the Advocates' Welfare Fund of the Bar Council of India within one week.

As the A-1 has undertaken to give up his practice, he will have to surrender his Sanad to the State Bar Council.

Accordingly, we dispose of the appeals by passing following order:

- (a) We confirm the impugned orders subject to the modification that A-2 (Ajeet Ranjeet Dokhe) shall file an Undertaking with the Bar Council of Maharashtra and Goa within a period of six weeks from today, stating therein that he will maintain the highest professional standards throughout his career and shall always abide by the Rules of Professional Ethics framed by the State Bar Council as well as by the Bar Council of India;
- (b) On the failure of the A-2 to file said Undertaking within six weeks from today, the Bar Council of Maharashtra and Goa shall initiate appropriate action against him in accordance with Section 35 of the Advocates Act, 1961;
- (c) We direct A-1 (Ranjeet @ Ranu Yadav Dokh) to surrender his Enrolment Certificate/Sanad to the Bar Council of Maharashtra and Goa within a period of one month from today;
- (d) We direct the A-1 and A-2 to file compliance reports regarding payment of the aforesaid amounts and filing of an Undertaking. Compliance reports to be filed within six weeks from today with the Registry of this Court;
- (d) If full compliance is not reported by A-1 and A-2 within six weeks from today, the Registry shall list the appeals for directions before this Court; and
- (e) The appeals are accordingly disposed of in the above terms. No order as to costs.

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