

[2023 LiveLaw \(SC\) 767](#)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

ABHAY S. OKA; J., PANKAJ MITHAL; J.

August 25, 2023

CIVIL APPEAL NO. OF 2023 (@ Diary No(s). 31972/2023)

SYED ALTAF AHMED versus S. SUSON

Advocate - Professional Misconduct - Advocate acting as real estate agent and selling client's property amounts to misconduct. The direction of the Disciplinary Committee of the Bar Council of India to suspend him as an Advocate for five years is fully justified. (Para 7)

(Arising out of impugned final judgment and order dated 05-11-2022 in BCITRC No. 44/2014 passed by the Bar Council of India)

For Appellant(s) Mr. Ashish Pandey, Adv. Mr. Banagar Shankarappa Gurappa, Adv. M/S. V. Maheshwari & Co., AOR

ORDER

1. Delay condoned.
2. Heard the learned counsel appearing for the appellant.
3. Perused the reply filed by the appellant before the Disciplinary Committee of the Bar Council of India (for short, "the Bar Council").
4. The appellant did not dispute that he had appeared for the complainant as his Advocate in a suit. He has also accepted that he obtained a General Power of Attorney from his client in respect of the property subject matter of the suit and that he has sold the same to a third party.
5. The Bar Council found that this was a case of professional misconduct as admittedly the appellant had taken a General Power of Attorney from his own client in respect of the property which was the subject matter of the suit in which the appellant was representing him. Moreover, the appellant could not produce any evidence to show that the consideration received by him was paid over to his client.

6. What is most important is the Paragraph 4 of the reply filed by the appellant before the Disciplinary Committee of the Bar Council, which reads thus:

"4. The Respondent submits that, he was also acting as the business of Real-Estate for selling and buying the properties as a Real-Estate Agent. In that context the Complainant approached the Respondent for a disposal of the half site and as per the instructions she executed Power of Attorney stating that, and has dispute with her family members and due to her old age she requested the Respondent to sell her half site and accordingly the Respondent arranged to sell her half site and consideration amount was paid to her in cash and she paid the Respondent 2% commission for sale of the property and it was done as Real-Estate Agent not as an Advocate."

(underlines supplied)

7. The appellant himself has come out with a case that while practicing as an advocate, he was also carrying on a business of selling and buying the properties as a real estate Agent. The appellant has also stated that the transaction with his client was in his capacity as a real estate Agent. Thus, the statement made by the appellant on oath in Paragraph 4 of his reply makes out a case of a gross professional misconduct on his part

apart from the misconduct already held as proved by the impugned order. Therefore, the direction to suspend him as an Advocate for five years is fully justified.

8. Hence, the Appeal is dismissed.
9. Pending applications also stand disposed of accordingly.

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