

Before Mr. Justice Griffin.

CHHANNU LAL (DEFENDANT) v. ASHARFI LAL AND ANOTHER  
(PLAINTIFF).\*

1907  
June 13.

*Act No. XVIII of 1878 (Legal Practitioners' Act), section 28—Pleader—Agreement to allow legal fees to be set off against money advanced to a pleader by a client.*

A client advanced certain money to a pleader who subsequently appeared for the lender in various cases. On suit by the lender to recover his loan the pleader set up an agreement entitling him to set off against the money borrowed his fees for professional services. *Hold* that the pleader was entitled to a set-off in the shape of reasonable remuneration for services actually rendered although there was no such agreement as required by the Legal Practitioners' Act, section 28. *Raghunath Saran Singh v. Sri Ram* (1) and *Razi-ud-din v. Karim Baksh* (2) referred to.

In this case one Jawahir Lal, who was a pleader commencing practice at Agra, borrowed a sum of Rs. 1,200 from Chhannu Lal and executed two promissory notes for the amount. Chhannu Lal instituted a suit to recover the amount of the promissory notes, and at or about the same time Jawahir Lal and his brother Asharfi Lal, who was joint with him, instituted a suit against Chhannu Lal for a declaration that the amount due on the promissory notes had been satisfied out of the remuneration due to them on account of their professional services to Chhannu Lal. The Court of first instance (Subordinate Judge of Agra) disposed of both suits at one and the same trial. It decreed Chhannu Lal's suit in part, deducting from the amount of his claim the remuneration found to be actually due to Jawahir Lal and Asharfi Lal for professional services in cases in which they were engaged to appear on behalf of Chhannu Lal. Both sides appealed to the District Judge, who, however, dismissed both appeals and confirmed the decree of the first Court. The present appeal was brought by Chhannu Lal in the suit of Jawahir Lal and Asharfi Lal.

Pandit *M. L. Sandal*, for the appellant.

*rjla Kedar Nath*, for the respondents.

GRIFFIN, J.—One Jawahir Lal, the respondent, who was a pleader commencing practice at Agra, borrowed a sum of Rs. 1,200

\* Second Appeal No. 850 of 1906, from a decree of H. W. Lyle, Esq., District Judge of Agra, dated the 12th of June 1906, confirming a decree of Munshi Shankar Lal, Subordinate Judge of Agra, dated the 19th of May 1905.

(1) (1906) I. L. R., 23 All., 764. (2) (1890) I. L. R., 12 All., 169.

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from Chhannu Lal, the present appellant, and executed two promissory notes for that amount. Chhannu Lal instituted a suit to recover the amount of the promissory notes, and at or about the same time Jawahir Lal, with his brother Asharfi Lal, who is found to be joint with Jawahir Lal, instituted a suit against Chhannu Lal for a declaration that the amount due had been paid out of the remuneration payable to them on account of their professional services to Chhannu Lal. Both suits were disposed of in one and the same trial by the Court of first instance, which decreed Chhannu Lal's suit in part, deducting from the amount of his claim the remuneration found to be actually due to Jawahir Lal and his brother Asharfi Lal for professional services in cases in which they were engaged to appear on behalf of Chhannu Lal. Both parties appealed to the District Judge, who has dismissed both appeals and confirmed the decree of the Court of first instance. In second appeal it is contended on behalf of the appellant, Chhannu Lal, that the respondents, Jawahir Lal and Asharfi Lal, rely upon a special agreement; that this special agreement, not being in writing, was in contravention of the provisions of section 28 of the Legal Practitioners' Act, and that therefore their suit, which is based upon that special agreement, is not maintainable. Further objection is taken that the suit brought by Asharfi Lal and Jawahir Lal is bad for misjoinder of parties. As to this objection, it does not appear that Chhannu Lal was in any way prejudiced by Asharfi Lal appearing as a plaintiff in the suit in which Asharfi Lal was undoubtedly interested as a member of a Joint Hindu family. On the question as to the interpretation of section 28 of the Legal Practitioners' Act, I am referred by the learned vakils for the parties to the ruling in *Raghunath Saran Singh v. Sri Ram* (1), in which it was held :—“The Legislature intended by this section that all special agreements between a pleader and his client should be in writing, signed and filed according to the provisions of the section. It intended at the same time to leave the pleader his full right to recover from his client his reasonable and proper fees for work actually done for the client and also all money duly and properly disbursed on his behalf. If a pleader relies

(1) (1890) I. L. R., 12 All., 169.

on an express or special agreement, he must prove one made in accordance with the provisions of the section." Further on in the same judgment the ruling reported in *Razi-ud-din v. Karim Bakhsh* (1) is quoted with approval. In the latter ruling Mr. Justice Straight holds, in regard to sections 28, 29 and 30 of the Legal Practitioners' Act, that "what these sections, in my opinion, did was to make provisions for agreements made between pleaders and their clients which relate to the payment of remuneration in excess of and apart from the amount allowed in the taxation." This being the interpretation put upon the provisions of section 28 of the Legal Practitioners' Act by a Division Bench in this Court in a ruling which has been approved by a Full Bench, I am bound to follow it. The alleged agreement is set out in paragraphs 1 and 2 of the plaint filed by Asharfi Lal and Jawahir Lal, and according to this agreement the sums due to them as their fees in cases in which *vakalat-namas* were filed, were to be set off against the loan of Jawahir Lal. This appears to have been an agreement relating to the manner in which payment for future services was to be made, and possibly, were the matter *res integra*, I would be inclined to hold that the agreement is not a valid one, not having been made in writing and signed and filed as provided for by section 28. I am, however, as said above, bound to follow the interpretation put upon the section in the ruling referred to above. It has been found as a fact that the defendants did render professional services to Chhannu Lal, and the amount due to them on account of these services has been proved by the certificates filed in each case. The fact of their engagement is also proved by the production of the *vakalatnama*, which provided that they were to be remunerated at the legal fees. In my opinion the grounds taken by the appellant must fail, and I must therefore dismiss this appeal, the appellant to pay respondents' costs.

*Appeal dismissed.*

(1) (1890) I. L. R., 12, All., 169.

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