

BY THE COURT :

The order of the Court is that the appeal is dismissed with costs.

Appeal dismissed.

MISCELLANEOUS.

1906

SRI
GOPAL
v.
AYESHA
BEGAN.

1906.
August 9.

Before Mr. Justice Sir George Knox.

IN THE MATTER OF THE PETITION OF MUHAMMAD ABDUL HAI *
*Act No. XVIII of 1879 (Legal Practitioners' Act), sections 13 and 14—
Jurisdiction—Inquiry by Court subordinate to the High Court into conduct of pleader practising before it.*

Held that the words "any such misconduct as aforesaid" as used in section 14 of the Legal Practitioners Act, 1879, relate to all the cases set out in section 13 of the Act. The authority therefore to inquire into a matter falling within the purview of section 13, clause (f), of the Act is not confined to the High Court, but may be exercised by a subordinate Court before which the pleader or mukhtar whose conduct is called in question may be practising. *In the matter of Purna Chunder Pal, Mukhtar (1), In the matter of Southekal Krishna Rao (2) and In the matter of a Pleader (3) referred to.*

THIS was an application arising out of the following circumstances. On the 15th of May 1906 the District Magistrate of Bijnor passed an order directing a Deputy Magistrate to charge one Muhammad Abdul Hai, a pleader, under section 14 of the Legal Practitioners Act and to adjudicate on the charge. The alleged improper conduct on the part of the pleader was that of "tempting and inducing two subordinates to act contrary to their duty in allowing him to examine the treasury cash book." The pleader concerned applied to the High Court under "section 15 of the Indian High Courts' Act" praying that the Court under its general powers of superintendence might order the District Magistrate not to take proceedings against the applicant upon the ground that the District Magistrate had no jurisdiction conferred upon him by the Legal Practitioners Act, 1879.

Mr. *Abdul Majid* and Babu *Surendra Nath Sen*, for the applicant.

The Officiating Government Advocate (Mr. *W. Wallach*), in support of the order.

* Miscellaneous No. 225 of 1906.

(1) (1899) I. L. R., 27 Calc., 1023. (2) (1887) I. L. R., 15 Calc., 152.
(3) (1902) I. L. R., 26 Mad., 448.

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KNOX, J.—On the 15th of May 1906 the Collector and Magistrate of Bijnor directed a Deputy Magistrate subordinate to him to charge a certain pleader under section 14 with improper conduct and to adjudicate on the charge. The improper conduct in another portion of the order is set out as consisting of tempting and enticing two subordinates of the Collector's office to act contrary to their duty in allowing him, the pleader, to examine the treasury account-book. The pleader concerned applied to this Court under "section 15 of the Indian High Courts' Act" and asked this Court to direct the Collector of Bijnor not to make any inquiry. The learned counsel who appears for the pleader concerned contends that section 14 of the Legal Practitioners' Act, 1879, empowers Courts subordinate to this Court only to hold inquiry into cases which fall within clauses (a) and (b) of section 13 of the said Act. Clause (f) of the same section, which contains the words "for any other reasonable cause," must, he argued, be interpreted, so far as section 14 is concerned, as "for some cause amounting to misconduct in the discharge of his professional duties" and it did not empower such Court to hold inquiry for any cause under section 13 falling outside clauses (a) and (b) of section 13, and misconduct in the discharge of professional duty. In support of his argument he referred this Court to the case of *In the matter of Purna Ghunder Pal, Mukhtar* (1), and particularly to that portion of the judgment of Mr. Justice Hill which is to be found at page 1041:—"Section 14 deals with that power and provides that, if a pleader or mukhtar practising in any subordinate Court is charged in such Court with 'taking instructions as aforesaid' or 'with any such misconduct as aforesaid,' the presiding officer shall send him a copy of the charge and also a notice that, on a day to be appointed therein, such charge will be taken into consideration; and then follow directions as to the procedure to be adopted in the matter. The taking of instructions and misconduct here referred to relate to clauses (a) and (b) respectively of section 13—see *In the matter of Southekal Krishna Rao* (2)—and it is only in such cases that a subordinate Court is authorized to proceed under section 14." The view taken by Hill, J., undoubtedly supports the argument put

(1) (1899) I. L. R., 27 Calc., 1023. (2) (1887) I. L. R., 15 Calc., 152.

forward by the learned counsel, but with the greatest respect to that learned Judge, it appears to me that sufficient weight was not attached to the important change which was introduced into section 13 of Act XVIII of 1879 by Act No. XI of 1896. At any rate I find no specific allusion to the change by which the various offences enumerated in section 36 of Act No. XVIII of 1879 were removed from the place where they originally stood in the Act and so placed as to precede section 14, or it may be that, as the misconduct which was then before the Judge was misconduct which had taken place in 1891 or some earlier date, it was held that the case was one which fell within the law as contained in the earlier Act. I find that this point was specially considered by G.osh, J., who came to the conclusion that it was extremely doubtful whether such misconduct, namely, misconduct antecedent to enrolment of the mukhtar as mukhtar was "any other reasonable cause," within the meaning of section 13, and he doubted that the Legislature ever intended to provide for such a case. Still, as will be seen from the whole tenour of his judgment, he considered that the words "any such misconduct as aforesaid" in section 14 of the Act as amended did apply to all the provisions contained in the amended section 13. Anyhow the case upon which Hill, J., relied, namely, *In the matter of Southekal Krishna Rao* (1) was a case in 1887 antecedent to the change which was made in section 13. If I were to adopt the construction which the learned counsel for the pleader wishes me to adopt, I should be practically holding that offences falling within clauses (c) to (f) are not misconduct into which subordinate Courts can hold inquiry. Although I do not base my judgment on the inconvenience which would be caused to subordinate Courts, I base my judgment on the inconvenience which would be caused to legal practitioners, and also to this Court, were this Court the only Court that could hold inquiry into the cases falling under clauses (c), (d), (e) and (f) which had been committed or which were said to have been committed before a subordinate Court. Looking to the difference between sections 13 and 14 as they originally stood, and sections 13 and 14 as they now stand, I find myself compelled to hold that the words "any such

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misconduct as aforesaid" relate to all the cases set out in section 13. In reply my attention was called to the case—*In the matter of a Pleader* (1), in which the writing of an anonymous letter by a pleader containing allegations which were intended to prejudice the mind of an officer in connection with a matter which he was investigating was held by the Madras High Court to be "other reasonable cause" within the meaning of clause (f) of section 13. In so holding that High Court added that they accepted the interpretation of clause (f) of section 13 of the Legal Practitioners' Act of 1879 which was adopted by the Calcutta High Court in *In the matter of Purna Chunder Pal, Mukhtar*. Holding therefore, as I do, that the subordinate Court has jurisdiction to take action under section 14 of Act No. XVIII of 1879, I find no cause for interfering. I dismiss the application.

1906
August 13.

APPELLATE CIVIL.

Before Mr. Justice Aikman.

KUNDAN AND OTHERS (DEFENDANTS) v. BIDHI CHAND (PLAINTIFF).^{*}
Act No. V of 1882 (Easements Act), section 4—Easement—Right of privacy—
Suit by occupier of house.

Not only the owner, but the lessee or other person in lawful possession of premises may maintain an action if his right of privacy is interfered with. *Gokal Prasad v. Radho* (2) referred to.

THE plaintiff in this case sued as a lessee of a certain house to obtain an injunction for the closing of a door opened by the defendants upon the ground that the door in question interfered with the plaintiff's right of privacy. The Court of first instance (Munsif of Koil) decreed the plaintiff's claim, and the lower appellate Court (additional Subordinate Judge of Aligarh) affirmed the decree though in a modified form. The defendants appealed to the High Court, urging mainly that the plaintiff, not being the owner of the house, had no right to sue.

Munshi Gulzari Lal, for the appellants.

^{*} Second Appeal No. 255 of 1905, from a decree of Muulvi Maula Baksh, Additional Subordinate Judge of Aligarh, dated the 13th of January 1905, modifying a decree of Babu Jagat Narain, Munsif of Koil, dated the 5th of May 1904.

(1) (1902) L. L. R., 26 Mad., 446.

(2) (1888) I. L. R., 10 All., 353.