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the share of dower due to defendants 1 and 2. That is ascertained by the following calculation. [Details of calculation and specification of properties are here omitted.] We allow a period of six months within which the plaintiffs will have to pay the proportionate amounts of dower due to defendants 1 and 2; otherwise their suit will stand dismissed with costs. If the plaintiffs pay the amounts within the period required, they will obtain proportionate costs in both courts on the amount of their success and failure. It is to be noted that the share of 9 annas $7\frac{1}{5}$ pies in mauza Chak Jalal exclusively belongs to defendant No. 1 and this will be exempted from any property decreed to the plaintiffs.

MISCELLANEOUS CIVIL

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November, 4

Before Mr. Justice King and Mr. Justice Iqbal Ahmad

IN THE MATTER OF A PLEADER*

Contempt of court—Committed by pleader in his personal capacity as a party—Conviction for contempt of court—Whether disciplinary action can be taken against him professionally—Legal Practitioners Act (XVIII of 1879), section 12—Bar Councils Act (XXXVIII of 1926), section 10—Misconduct.

A person, who was a pleader, committed gross contempt of court in his personal capacity as a party to a litigation, and was convicted and punished for the offence of contempt of court. *Held* that he could thereupon be dealt with, as a pleader, under section 12 of the Legal Practitioners Act.

An advocate or pleader may be punished professionally for gross contempt of court committed by him in his personal capacity. Section 10(1) of the Bar Councils Act clearly shows the intention of the legislature to render an advocate punishable in his professional capacity for misconduct other than professional misconduct.

*Miscellaneous case No. 425 of 1932.

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Sir *Tej Bahadur Sapru*, for the applicant.

Dr. *M. Wali-ullah* (Assistant Government Advocate), for the Crown.

KING and IQBAL AHMAD, JJ. :—Mr. Ram Mohan Lal, pleader, has appeared before us in response to a notice issued by a Bench of this Court to show cause why he should not be suspended or dismissed as a pleader on the ground that he has been convicted of a criminal offence which implies a defect of character which unfits him to be a pleader on the rolls of the court.

Mr. Ram Mohan Lal was the defendant in a suit pending before the Judge of the small causes court at Allahabad. He took objection to an order passed by the Judge of that court in the course of the trial of the suit and was told that if he did not agree to the court's ruling, he should take his grievance to the High Court. He then remarked: "There is no Chief Justice now." On being asked by the Judge what he meant by that remark, he said: "The Chief Justice who used to bring Judges to their senses is not here and is gone."

The matter was reported to the High Court, which took proceedings against the pleader for contempt of court. He filed a written statement giving his version of the occurrence in the small causes court, attempting to justify his conduct and making certain objectionable imputations upon the attitude taken by the Judge of that court. Subsequently, however, the learned counsel who appeared for him withdrew all the allegations contained in the first paragraph of his written statement, which served rather to aggravate the offence than to mitigate it, and admitted that the version given by the trial court was correct and made an unqualified apology. He was thereupon sentenced to pay a fine of Rs.75 for contempt of court.

A Bench of this Court then passed an order on the 27th of June, 1932, ordering him to show cause why he

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should not be dealt with as a pleader, under section 12 of the Legal Practitioners Act, in consequence of his conviction of contempt of court.

The case for the pleader has been argued by Sir *Tej Bahadur Sapru* who has admitted from the outset that this Court has jurisdiction to take action against the pleader under section 12 of the Legal Practitioners Act. It is admitted therefore that the pleader has been convicted of a criminal offence implying a defect of character which unfits him to be a pleader. His learned counsel has, however, strongly contended that in the circumstances of this case the pleader has been sufficiently punished by the sentence of fine passed upon him and that there is no need to take any further disciplinary action against him in his professional capacity. In support of this argument much reliance is placed upon *In re Wallace* (1). In that case the appellant was an advocate and also attorney admitted to practice in the Supreme Court of Nova Scotia. He was also a suitor in that court. In certain cases in which he was a suitor he supposed that he had reason to complain of the conduct of the Judges of the court and he wrote a letter of a most reprehensible character, addressed to the Chief Justice, reflecting on the Judges and on the administration of justice generally in the court. The Supreme Court took action against him for contempt of court and ordered that he should be suspended as an attorney or advocate of that court for an unspecified period. Their Lordships of the Privy Council held that as the appellant was guilty of a contempt of court committed only in his personal character, the Supreme Court should have punished the offence with the customary punishment, namely fine or imprisonment, and should not have imposed a professional punishment for an act which was not done professionally. We do not think that this ruling can be interpreted to mean that an advocate should never

(1) 1866) L.R., 1.P.C., 283.

be punished professionally for contempt of court committed by him in his personal capacity, however gross the offence may be. Their Lordships held, upon the facts of that case, that there was no necessity for the Judges to go further than to award the customary punishment for contempt of court. The facts of the present case are somewhat different. The pleader in his capacity as a suitor in the trial court made a grossly improper remark reflecting upon the Judges of the High Court who at that stage had no concern whatever with the suit. There was not the slightest justification or excuse for making the scandalous attack upon the Chief Justice.

On behalf of the Crown the case, *In re Sashi Bhushan Sarbadhicary* (1), has been referred to. In that case an advocate conducting an appeal before the High Court had an altercation with one of the Judges and he subsequently published an article in a newspaper attempting to vindicate his professional conduct. This article contained libellous remarks reflecting upon certain Judges of the High Court in their judicial capacity. The High Court thereupon suspended the advocate from practice under the powers conferred by the Letters Patent. Their Lordships of the Privy Council upheld the order of the High Court, remarking that the contempt of court of which the appellant was found guilty was committed in the attempt to vindicate his professional conduct, and the publication of the libel constituted "reasonable cause" for the suspension of the advocate from practice. That case can, however, be distinguished on the ground that although the contempt of court was committed in a private capacity, it was committed with a view to vindicating the advocate's professional conduct.

Section 10, sub-section (1) of the Indian Bar Councils Act, 1926, clearly shows the intention of the legislature to render an advocate punishable in his

(1) (1906) I.L.R., 29 All., 95.

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professional capacity for misconduct other than professional misconduct. We see no good reason for holding that an advocate or pleader should never be punished professionally for contempt of court, however gross such misconduct may be, provided that the misconduct is not committed in his professional capacity. Each case should be dealt with according to the circumstances.

In the present case it is pointed out that the pleader is a young man and that he was only enrolled as a pleader in March, 1931. It is further stated before us that he had not even started practice as a pleader on the 1st of April, 1932, when he made the offensive remarks which form the basis of these proceedings. He was also in financial difficulties and was unversed in the traditions of his profession, and he merely made the offensive remarks in a moment of irritation and has now expressed his sincere regret. In these circumstances it is argued that there is no necessity to take any disciplinary action against him as a pleader when he has already been punished for contempt of court committed in his personal capacity. We have given due weight to all the extenuating circumstances which have been pointed out on his behalf but we think that it would not be expedient to impose no professional punishment whatever. His remarks about the Chief Justice were, as we have already remarked, not only scandalous but utterly uncalled for and inexcusable. If the remarks had been uttered by an ordinary suitor, they would have been highly objectionable, but when they are uttered by a suitor who is also a pleader, and who therefore should feel bound to uphold the dignity of His Majesty's judicial officers, we think that the offence should be treated more severely. As remarked by their Lordships of the Privy Council in *In re Sashi Bhusan Sarbadhicary*, "it is essential to the proper administration of justice that unwarrantable attacks should not be made with impunity upon Judges in their public capacity." In

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our opinion, the pleader's misconduct has not been adequately punished by a fine of Rs.75 only and some further professional punishment should be imposed.

Having regard to all the circumstances of the case, we order that Mr. Ram Mohan Lal be suspended from practice as a pleader for a term of six months.

APPELLATE CIVIL

Before Mr. Justice King and Mr. Justice Thom.

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November, 4

BHAWANI PRASAD AND OTHERS (APPLICANTS) *v.* SECRETARY OF STATE FOR INDIA AND ANOTHER (OPPOSITE PARTIES).*

U. P. Town Improvement (Appeals) Act (Local Act III of 1920), section 3(a)—U. P. Town Improvement Act (Local Act VIII of 1919), section 64(1) (b)—Ex parte *order by President of the Tribunal apportioning compensation—Order refusing to set aside the* ex parte *order—Not appealable.*

Under section 3(*a*) of the U. P. Town Improvement (Appeals) Act, 1920, an appeal is provided from an order deciding a question of apportionment of compensation, passed by the President of the Tribunal under section 64(1) (*b*) of the U. P. Town Improvement Act, 1919; but where such an order is passed *ex parte* and an application for setting aside the *ex parte* order is rejected, no appeal lies from the order of rejection. That order cannot be held to decide a question relating to the apportionment of compensation and cannot, therefore, come under section 3(*a*) of the U. P. Town Improvement (Appeals) Act.

Mr. *Krishna Murari Lal*, for the applicants.

Mr. *U. S. Bajpai* (Government Advocate), and Mr. *Ram Nama Prasad*, for the opposite parties.

KING and THOM, JJ. :—This is an appeal from an order passed by the President of the Tribunal under the U. P. Town Improvement Act, 1919, on the 20th of

*First Appeal No. 78 of 1931, from an order of Zahur Ahmad, President of the Tribunal of Improvement Trust, Allahabad, dated the 20th of January, 1931.