

APPELLATE CIVIL.

Before Sir Amberson Martin, Kt., Chief Justice, and Mr. Justice Murphy.

1929
March 26.

THE GOVERNMENT PLEADER, HIGH COURT, BOMBAY, PETITIONER *v.*
SIDDICK H. SHAIKH, PLEADER, DISTRICT COURT, SURAT, OPPONENT.*

Bombay Pleaders' Act (Bom. XVII of 1920), section 26—Advertisement by a pleader—Unprofessional conduct.

S, a District Pleader holding a Sanad for the Surat District, sent circular post-cards to the public under his signature as a High Court Pleader stating that he had been authorized by the District Court to examine Wakf properties and to issue certificates. In fact all that he had been authorized to do was to examine accounts for certain specific Wakf properties on his separate application in each case, but was not authorised to audit the accounts of Wakf properties generally.

Held, that it was improper conduct on the part of S to issue such post-cards and to canvass for the auditing work in the way that he did and that accordingly he was guilty of an offence under section 26 of the Pleaders' Act.

APPLICATION for taking action under the Court's Disciplinary Jurisdiction.

Siddick H. Shaikh was a pleader practising in the District of Surat for the last five years under a Sanad issued on August 28, 1924, for the Surat District. In 1927 or thereabout he applied to the District Judge of Surat requesting that a general order might be passed in his favour to audit the Wakf accounts under section 6 (b) of the Mussalman Wakf Act (XII of 1923). The District Judge declined to give such general permission but allowed him to audit Wakf accounts in each case in respect of which he was so appointed. Notwithstanding these facts, he sent various circular post-cards to the public with reference to the examination of accounts of Wakf properties. These post-cards were signed by him as High Court Pleader. These were issued printed in Gujarathi and when translated ran as follows:—

“ Bhaga Talao, Surat.

Date 26th March 1928.

Respected Sir,

Greetings. His Honour the District Judge of Surat has authorized me to examine the accounts of Wakf properties and to issue certificates. Accounts in

respect of Wakf properties should be filed in the District Court before the 30th day of June every year. Fee for examining the accounts is 1 per cent. on the annual income.

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For issuing such circular post-cards, the District Judge of Surat called upon him to show cause why his conduct should not be reported to the High Court for taking disciplinary action against him under section 26 of the Bombay Pleaders' Act XVII of 1920. In his explanation to the District Judge, he stated *inter alia* :—

"I have not advertised myself as a pleader to the public in general but have merely informed the persons who were directly concerned with Wakf matters that I was authorized by the District Judge to audit Wakf account. In fact it was a mere conveyance of information to the parties concerned about the work that I was authorized by the Court to do. Advertising by a pleader is nowhere specially or impliedly prohibited under the Pleaders' Act or rules thereunder. There is, I believe, customary prohibition. I have every respect for that custom but I believe such prohibition is with regard to legal work only. Audit work is not legal work. If it were so, no non-lawyer should have been authorized to do such work."

The learned District Judge reported the conduct of Mr. Siddick to the High Court for taking disciplinary action against him.

B. G. Rao, Assistant Government Pleader, for the petitioner.

M. B. Dave, with *H. M. Choksi*, for the opponent.

MARTEN, C. J. :—This is an application under the Disciplinary Jurisdiction against Mr. Siddick H. Shaikh, a District Pleader holding a sanad for the Surat District. The charge against him is shortly that he had been guilty of improper conduct under section 26 of the Bombay Pleaders' Act inasmuch as he sent various circular post-cards to the public with reference to the examination of accounts of Wakf properties. These post-cards are signed by him as High Court Pleader. They are in the form Exhibit C and after stating his address and the date are as follows :—

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“ Respected Sir,

Greetings. His Honour the District Judge of Surat has authorized me to examine the accounts of Wakf properties and to issue certificates. Accounts in respect of Wakf properties should be filed in the District Court before the 30th day of June every year. Fee for examining the accounts is 1 per cent. on the annual income.

SHAIKH SIDDIKBEHAI HAJIBHAI,
High Court, Pleader.”

It will thus be seen that the pleader gives his address and description. So far as the description goes he is not entitled to call himself a High Court Pleader. He is only a District Court Pleader. But apart from that, it is important to observe that he refers to himself in this circular post-card as a Pleader.

Next, as regards his statement that he had been authorised to examine the accounts of Wakf properties and to issue certificates, this is inaccurate. The statement means, I think, that he had been given authority to audit the accounts of Wakf properties *generally* by an order of the Court under section 6 (2) of the Mussalman Wakf Act of 1923. In fact, all that he had been authorised to do was to examine the accounts for certain specific Wakf properties on his separate application in each case. No general permission had ever been given to him. He had asked for it, but it had been refused.

Next, in his affidavit of March 25, 1929, which has just been handed to us, he says in paragraph 4 :

“ He never meant to say or convey that he had general authority to audit the Wakf accounts as distinguished from special authority.”

We think, however, that the fair meaning of the post-card is that he represented that he had this general authority.

The main question, however, is, did this post-card amount to advertising? The contention of the pleader when called on for his explanation by the learned District Judge, was as follows :—(I refer to his affidavit of July 28, 1928) :

“ Advertising by a pleader is nowhere specifically or impliedly prohibited under the Pleaders' Act or rules thereunder. There is, I believe, customary

prohibition. I have every respect for that custom, but I believe such prohibition is with regard to legal work only. Audit work is not legal work. If it were so, no non-lawyer should have been authorized to do such work."

As regards advertising, there is no doubt that that is unprofessional conduct on the part of a professional man such as a Pleader, or an Advocate or a Barrister. This indeed is a leading distinction between professional men on the one hand and those engaged in trade or business on the other hand, and it is of importance that that distinction should be maintained. Accordingly, if this circular post-card had merely given the address and the name and description of this pleader, it would yet have amounted to an advertisement on his part and therefore to improper conduct. The fact that, in addition, he stated that he had been authorised to examine the accounts of Wakf properties and to issue certificates by the District Court rather aggravates the case than the reverse. Even if auditing is not strictly legal work, yet this very fact of advertising his readiness to take up that work, combined with his statement that he is a High Court Pleader and seeing that this work is connected with the Courts and has to be supervised by the Courts, this would, I think, result in his getting an improper advantage in legal work over his fellow pleaders, who did not descend to such devices. Further as I have already indicated, we think that his statements as to the authority given to him by the District Judge, and also as to his being a High Court Pleader, were inaccurate and misleading.

We, therefore, hold that it was improper conduct on his part to issue these post-cards and to canvass for this particular work in the way that he did, and that accordingly he has committed an offence under section 26 of the Bombay Pleaders' Act.

The next question is, what course we should take to signify our opinion of his improper conduct. We have

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considered whether it would be proper to suspend his sanad for a certain time, but as he is a comparatively junior practitioner we will not, on this occasion, take that particular course. We think it will be sufficient, under all the circumstances, to direct that he be severely reprimanded, and that as he is not present in Court to-day that reprimand be conveyed to him personally in open Court by the learned District Judge. We further order that he do pay the Government Pleader's costs of this application.

Order accordingly.

B. G. R.

APPELLATE CIVIL.

Before Sir Amberson Marten, Kt., Chief Justice, and Mr. Justice Murphy.

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 March 27.

SETH MANEKLAL MANSUKHBHAI (ORIGINAL PLAINTIFF), APPELLANT v. NAGARSETH KASTURBHAI MANIBHAI AND ANOTHER (ORIGINAL DEFENDANTS), RESPONDENTS.*

Indian Registration Act (XVI of 1908), sections 25 and 77—Refusal by Registrar to accept a document for registration—Suit to enforce registration of such document whether competent—"Refuse to register" and "Refuse to accept for registration"—No distinction between.

The defendants executed a sale deed of their property in favour of the plaintiff on January 24, 1926, but did not present it for registration before the Sub-Registrar till August 21, 1926. The Sub-Registrar, accepted a penalty and forwarded the deed to the Registrar for excuse of delay in presentation for registration under section 25 of the Registration Act. The Registrar did not excuse the delay and the Sub-Registrar thereon made an endorsement refusing to register the document. An appeal was then preferred under section 72 to the Registrar who dismissed it. The present suit was filed under section 77 of the Registration Act to have a decree directing the deed to be registered in the office of the Sub-Registrar of Ahmedabad if it be duly presented for registration within 30 days after the passing of the decree.

Held, (1) that a suit was competent under section 77 of the Registration Act to challenge the order made by the Registrar under section 25 of the Act;

(2) that there was no distinction between "refuse to register" and "refuse to accept for registration" for the purposes of sections 76 and 77 of the Registration Act.

*Appeal No. 514 of 1927 from Original Decree passed by S. P. Badami, First Class Subordinate Judge, at Ahmedabad in Civil Appeal No. 44 of 1927.