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 INDIA
 GENERAL
 STEAM
 NAVIGATION
 COMPANY
 v.
 JAGAT
 CHANDRA
 KUNDU.

however, to my mind, establishes that the order given was to port and not to starboard the helm.

On these grounds the appeal must succeed and the suit as against the Company must be dismissed with costs, including the cost of this appeal, to be paid by the plaintiffs to the defendant Company.

GEORGE J. I concur.

Appeal allowed.

S. C. G.

CIVIL RULE.

*Before Sir Francis W. Maclean, K.C.I.E., Chief Justice, and
 Mr. Justice Stevens.*

*IN RE PURNA CHANDRA DUTT.**

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Jan. 26.

Professional Misconduct—Appropriation of client's money by Pleader—Legal Practitioners' Act (XVIII of 1879.) s. 13.

A pleader, by virtue of a power-of-attorney given to him by his client, drew out a certain decretal amount from Court, and applied the same to his own purpose. When the client asked for the money, the pleader promised to pay at a subsequent date. On that date the amount was not paid, but he gave a promissory note to his client for the sum. Ultimately the client had to bring an action for the money:—

Held, that such conduct on the part of the pleader was grossly improper in the discharge of his professional duties within the meaning of s. 13 of the Legal Practitioners' Act.

In the matter of a Solicitor (1) dissented from.

RULE under s. 13 of the Legal Practitioners' Act (XVIII of 1879).

Messrs. J. B. Picton & Co. brought a suit and obtained a decree in the Court of Small Causes, Calcutta, against one Bhoot Nath Majumdar for Rs. 1,657-6. Babu Purna Chandra Dutt was

* Civil Rule No. 3605 of 1902.

(1) (1895) 11 T. L. R. 169.

the pleader for the plaintiffs in that suit, and he having obtained a special power-of-attorney from the plaintiffs drew out the money from the Court on the 18th June 1902. A demand having been made by the decree-holders on the 31st July 1902, the pleader failed to pay the money, but he promised to pay on the 3rd August 1902. On that date the plaintiffs sent one of their assistants to the pleader for an immediate payment of the money, but he being unable to pay the amount handed over to the said assistant a promissory note, payable on demand, for Rs. 1,600 only, and a number of Municipal rate-bills relating to a certain house to be held as collateral security. On the 4th August 1902 a letter of demand was written to the pleader, and again he failed to pay the money. Subsequently, on the 16th August 1902, a plaint was filed in the High Court for the recovery of the sum of Rs. 1,657 odd due to the plaintiffs from the pleader, with a prayer for a declaration that the said amount would form a charge upon the house whose rate-bills were given as collateral security.

The case came on for hearing before Mr. Justice Stephen, who passed a money decree against the pleader for Rs. 1,115-6 after giving credit for Rs. 500 which had been paid by the pleader at the time of the hearing. After delivering the judgment his Lordship directed that a copy of the proceedings in the case should be sent to the Chief Judge of the Presidency Small Cause Court for such action as he might think fit to take. Thereupon Mr. Ormond, the Officiating Chief Judge, held an enquiry and submitted his report to the High Court, with the request that the pleader might be dealt with under s. 13 of the Legal Practitioners' Act. The High Court then issued this Rule calling upon Babu Purna Chandra Dutt, the pleader, to show cause why he should not be suspended or dismissed for gross professional misconduct.

Dr. Ashutosh Mookerjee (Babu Aghore Nath Seal with him) shewed cause. As it appeared that the pleader had paid, before the decree was passed against him by the High Court, a substantial sum, and after the decree and before the hearing of this Rule the balance in full, with costs, it could not be said that he

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was guilty of any professional misconduct : see *In the matter of a Solicitor* (1).

MACLEAN C.J. This is a Rule directed to be issued by this Court, calling upon Babu Purna Chandra Dutt, a pleader of some twenty years' standing in the Calcutta Court of Small Causes, to show cause why he should not be suspended or dismissed for grossly improper conduct in the discharge of his professional duties.

The facts are these, and they lie in a nutshell. The opposite party acted as pleader on behalf of the plaintiffs in a certain suit, and in that suit they recovered a sum of Rs. 1,657. They gave this gentleman a power-of-attorney to draw out the money. He drew the money out of Court on the 18th of June; and it is quite clear that he applied that money to his own purpose. On the 31st of July, the clients applied for the money, and in reply to that demand he wrote a letter of that date, in which he says:—"With reference to the decretal amount in suit No. 4372 of 1902 decreed on 30th April 1902, the sum of Rs. 1,657-6 has been drawn by me on the 18th June 1902. I will pay you the same on Monday, the 3rd August. Kindly excuse delay." It is clear he had not then the money. I need not deal on detail, with what occurred subsequently it does not seem to bear directly on the matter. Put shortly, the amount was not paid, and the pleader gave a promissory note for the sum, and something which purported to be a security for its payment. He then wrote a letter on the 6th of August asking for mercy. Ultimately the clients brought an action for the money, and on the 28th August a decree was made against him. It is perfectly clear that, most unfortunately and most improperly the pleader took the money which is his client's money and kept it, and improperly appropriated to his own purpose. When he was asked on the 3rd of August to hand it over, it is clear he was not in a position to do so. In my opinion such conduct on the part of the pleader is grossly improper in the discharge of his professional duties.

We have been referred to the case of *In the matter of a Solicitor* (1) in the High Court of England, in which two learned

Judges decided that the conduct of a solicitor, substantially identical with that of the pleader here, did not come under the head of professional misconduct. With great respect to the learned Judges who decided that case, I am not prepared to accept that proposition. At any rate what we have now to consider is whether, within the meaning of the statute which governs these matters in this country, the pleader's conduct here was grossly improper in the discharge of his professional duties. It would be disastrous, in the interests of the administration of Justice, in the interests of the public and in the interests of the legal profession itself, if we were to hold otherwise. The case is clearly established; and, as regards punishment, we are taking a not unmerciful view, based upon his previous record, in suspending the pleader for a year only.

STEVENS J. I concur.

S. C. G.

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