

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.6328 OF 2005

T. LAXMAN KUMAR

... APPELLANT

VERSUS

PRADEEP KUMAR PATIL

... RESPONDENT

O R D E R

We have heard Mr.Y.Raja Gopala Rao, learned counsel for the appellant and perused the order passed by the Disciplinary Committee of the Bar Council of India impugned in the present appeal under Section 38 of the Advocates Act.

Mr.Y.Raja Gopala Rao, submits that a Civil Suit (O.S.No.38/1996) was filed by the present appellant against the proprietor, Panthulu Hotel, No.14-60, New Bazar, Badepalli, Mahabubnagar District. The appellant did not instruct his advocate (respondent herein) not to press the Suit. Learned counsel would submit that had the Memo (Exh.R/1) been prepared on the instructions of the appellant, it would have been filed by the respondent before the Trial Court on February 16, 1996. He invited our attention to the deposition of the respondent before the Disciplinary Committee.

The Disciplinary Committee, on consideration of the evidence on record, concluded that the respondent-advocate made endorsement on the plaint 'as not pressed' on the basis of the Memo (Exh.R/1). The Disciplinary Committee found the explanation of the advocate natural.

We have no justifiable reason to take a view different from the Disciplinary Committee in this regard. If the Complainant is right in his allegation that the respondent obtained signatures on blank papers and used the same in preparing the Memo (Exh.R/1) and in fact he did not give instructions to his advocate not to press the suit, he would not have waited for two years in filing the complaint. The explanation that the appellant had no knowledge of the dismissal of Suit for about two years hardly merits acceptance. In a Suit of this nature, where the grievance of the appellant (Plaintiff in the Suit) was that the defendant has put the generator in his property and he sought removal of generator, he obviously would have been keen to know the progress in the Suit from the advocate on every date and not let the proceedings remain dormant for two years. Moreover, had the respondent (advocate) acted without instructions in not pressing the suit, the appellant would have definitely taken steps for restoration of the suit which he never did. The appellant, as a matter of fact, has failed to prove by cogent and reliable evidence that the Memo (Exh.R/1) was a forged and fabricated document and the generator had not been removed by the defendant. In the absence of such proof, there is every likelihood that the defendant having removed the generator on the basis of compromise between the parties, the appellant did not want to pursue the suit.

All in all, consideration of the matter by the Disciplinary Committee is proper and warrants no interference by us.

The Civil Appeal is, accordingly, dismissed with no order as to costs.

At this stage, learned counsel for the appellant submitted that there was no justification for the Disciplinary Committee to impose costs of Rs.3,000/- upon the appellant (complainant). Learned counsel for the respondent agreed that the order of the Disciplinary Committee asking the Complainant to pay costs of Rs.3,000/- may be set aside. We order accordingly.



.....J.
(R.M. LODHA)

.....J.
(JAGDEESH SINGH KHEHAR)

NEW DELHI;
22ND SEPTEMBER, 2011