

SUPREME COURT OF INDIA

Swatantar Dixit

Vs.

Govind Ram

(Dr.A.S. Anand, R.C. Lahoti and K.G. Balakrishnan JJ.)

10.08.2000

ORDER

1. The respondent No. 1 filed a complaint against the appellant, an Advocate, who had been engaged by the complainant to argue an appeal, alleging misappropriation of property. Inter alia it was alleged that the appellant-Advocate obtained signatures of the respondent on an agreement dated 8th July, 1986 purporting to give a piece of land measuring 15' x 25' from out of 15 biswas of land in lieu of fees to the Advocate, when the fees had already been paid. In 1991, the appellant-Advocate filed a civil suit (Civil Suit No. 92/1991) for specific performance based on the agreement dated 8th July, 1986. That was when the facts came to light. The complaint before the Bar Council of Himachal Pradesh was filed in 1993, but since it was not disposed of within one year, it was transferred to the Bar Council of India in 1995. The Disciplinary Committee of the Bar Council of India issued notice to the appellant but on the nonappearance of the appellant, heard and decided the case ex parte. Vide order dated 18th September, 1998, The Bar Council of India directed Bar Council of Himachal Pradesh to strike off the name of the appellant from the roll of Advocates maintained by them. As a consequence, the appellant was debarred from practising as an Advocate before any Court, Tribunal or Authority in India. It appears that civil suit (Suit No. 92/1991) filed by the appellant-Advocate for specific performance of the agreement dated 8th, July, 1986 was also dismissed and, the said dismissal was upheld by the High Court of Himachal Pradesh vide order dated 3rd September, 1997. A special leave petition has been filed against the said order of the High Court dated 3rd September, 1997 which is pending in this Court.

2. The facts are not disputed. Mr. K. Ramkumar, learned Counsel appearing for the appellant, however, has, after referring to material on record confined his submissions to the extent of punishment only. It is submitted that the appellant had enrolled himself as an Advocate in 1980 and when he entered into the agreement dated 8th July, 1986, he had sought opinion of his senior. It is submitted that the act was improper but since it was the first case of the appellant in which he had acted wrongly due to his immaturity, the punishment imposed upon him by the Bar Council of India for the said lapse is grossly excessive and disproportionate. It is submitted that the appellant who is about 50 years of age and has young children would be virtually on the road leading to ruination of his family. Learned Counsel has, therefore, prayed for leniency.

3. Learned Counsel also submits that insofar as the special leave petition filed by the appellant against the order of the High Court dated 3rd September, 1997, as well as the order in Review Petition dated 19th December, 1998 is concerned, he does not press the same and thus the appellant derives no benefit from his wrongful act. We, accordingly, dismiss the special leave petition both on

the ground of unexplained inordinate delay of 360 days as well as on merits.