MANU/BH/0182/1936

Equivalent Citation: AIR1936Pat418, 162Ind. Cas.13

IN THE HIGH COURT OF PATNA

Decided On: 20.02.1936

Appellants:**In Re B, a Pleader of Gaya**

Hon'ble Judges/Coram:
Courtney Terrell, C.J., Stewart Macpherson and Saiyid Fazl Ali, JJ.

JUDGMENT

Saiyid Fazl Ali, J.

1. This matter comes before us upon a report submitted by the District Judge of Gaya under the Legal Practitioners Act against a pleader B, under the following circumstances. The pleader had obtained a money decree against a judgment-debtor who was a resident of village Jamuawan in pargana Samai and in connection with the decree he filed an execution petition on 12th August 1934, in which he sought to attach certain lands belonging to the judgment-debtor. These lands are admittedly situated in village Jamuawan in pargana Samai but by mistake they were described in the execution petition as being situated in village Jamuawan, Pargana Narhat and a similar mistake was committed in describing the residence of the judgment-debtor. It appears that the pargana was also wrongly described in several important processes such as the writ of attachment and notices under Order 21, Rule 66, as well as in the peon's report on the notice under Order 21, Rule 54. Not with standing this mistake however the writ of attachment as well as the notice under Order 21, Rule 66, appear to have been served upon the judgment-debtor and the property which was in fact sought to be attached was attached. The charge against the pleader is that he altered the name of the pargana from "Narhat" into "Samai" in the execution petition, the writ of attachment, the notice under Order 21, Rule 66, and the peon's report on the notice under Order 21, Rule 54, after the attachment had been made and after these papers had become part of the Court-record.

2. The pleader in defending himself before the District Judge somewhat feebly tried to show that the execution petition had been corrected before it was filed in Court and that the various processes in which the alteration was said to have been made had also been corrected before they were filed. His explanation was that the mistake had in first instance, been made by his clerk but when the papers were put up before him, he corrected the mistakes and initialled the corrections in order to show that they had been made by him. Now this explanation was not accepted by the learned District Judge and it is clearly impossible to accept it, because if it is a fact that the execution petition was corrected before it was filed, it is difficult to account for the mistake being repeated in the various processes which were filed long after the filing of the execution petition. It is still more difficult to account for the mistake being committed in the peon's report. There can, therefore be no doubt that the conclusion arrived at by the learned District Judge is correct and the pleader who undoubtedly had access to the record of the case, surreptitiously made the alteration in question long after the filing of the execution petition. The Munsif as well as the District Judge while pointing out that the conduct of the pleader was most reprehensible, have also referred to certain extenuating circumstances in their report. The learned District

Judge has stated in his report that the pleader has very little practice in the Courts and is a comparatively young man of little experience and similarly the learned Munsif recommended to the District Judge that considering the inexperience of the pleader and the absence of any mala fide intention on his part, a lenient view might be taken of his case.

3. It is perhaps true that the pleader had no mala fide intentions in the sense that he did not try to gain any undue advantage over his adversary and he made these corrections probably with a view to avoid any objection being raised by the judgment-debtor in future; but at the same time it cannot be overlooked that to tamper with public records is a serious matter, and when it is done by a pleader who has peculiar facilities afforded to him by reason of his position for handling such record, the conduct cannot be easily excused. In my opinion we cannot take a more lenient view of the matter than what has been suggested by the learned District Judge and taking his recommendation as well as that made by the Munsif into consideration, we think that in this case the pleader concerned should be suspended from practice for a period of one year and we order accordingly.

Courtney Terrell, C.J.

4. I agree.

Stewart Macpherson, J.

5. I agree.