

In Re: a Pleader

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Court : Allahabad

Decided On : Jan-04-1916

Reported in : AIR1916All312; (1916)ILR38All182; 33Ind.Cas.632

Judge : Henry Richards, C.J.,; Tudball and ;Muhammad Rafiq, JJ.

Appellant : In Re: a Pleader

Judgement :

Henry Richards, C.J., Tudball and Muhammad Rafiq, JJ.

1. This is an application by a pleader whose certificate the learned District Judge of Meerut refused to renew in December last. It appears that the gentleman in question instituted two suits for pre-emption based on Muhammadan law. The court of first instance decided in his favour and granted him a decree. On appeal before the learned District Judge the decision of the Munsif was reversed after the plaintiff (who is the present applicant) had been recalled as a witness and examined. The right of the plaintiff to pre-empt the property, provided he observed the requirements of the Muhammadan law, docs not seem to have been disputed. The learned District Judge having dismissed the suits took action under Section 476 of the Code of Criminal Procedure, with the result that proceedings have been instituted against the applicant under Section 209 of the Indian Penal Code, a section which makes it a criminal offence for a person to make in a court of justice a claim which he knows to be false with intent to injure or annoy another person. All this happened in February, 1915. Two appeals against the decision of the

learned District Judge in the pre-emption suits are now pending in this Court. Apparently the prosecution under Section 209 has been suspended, pending the decision of these appeals. Upon the usual application being made by the pleader for the renewal of his certificate the learned District Judge passed an order in these words 'renewal refused.' The present application is made to us in consequence. On the 23rd of December, 1915, the learned District Judge reported to this Court that he had refused to renew the certificate thinking that the pleader was not a proper person to whom a renewal should be granted. It seems to us that the action of the learned District Judge has been somewhat inconsistent. All the information as to the character of the pleader which the learned District Judge had before him in December, when he refused to renew his certificate, was before him in February, 1915. Two courses were then open to him: either he might (as he did) direct a prosecution, or he might have proceeded under Section 14 of the Legal Practitioner's Act. Having directed a prosecution, it seems to us clear that he ought to have waited until the determination of the criminal prosecution before he took any other step which would have the effect of suspending or dismissing the pleader from practice. By his order refusing to renew the certificate the learned District Judge has in effect found the pleader guilty before he has been tried. Notwithstanding the alleged misconduct by the pleader he has been practising from February, 1915, to the end of the year. We think that the pleader should not be suspended under the circumstances of the present case until the result of the criminal prosecution is made known. We accordingly direct the learned District Judge to renew the certificate of the pleader in question. After the criminal trial, if necessary, and in the event of a conviction, the matter can be reported to the High Court for orders.