

Het Ram Vs. Guddar Mal

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Court : Allahabad

Decided On : Nov-01-1918

Reported in : (1919)ILR61All246

Judge : Henry Richards, Kt., C.J. and ;Pramada Charan Banerji, J.

Appellant : Het Ram

Respondent : Guddar Mal

Judgement :

Henry Richards, Kt., C.J. and Pramada Charan Banerji, J.

1. In this case the court below refused to allow the fee of the successful respondent's pleader. It appears that the pleader in the case filed a certificate that he had duly received his fee. An affidavit was also filed by a man who purported to be a karinda of the respondent, and in this affidavit the karinda swore that he had duly paid the fee and that he had not entered into any arrangement to get back the whole or any part of the same. The learned Judge seems to have thought that having regard to Rule 1, chapter XXI, of the General Rules for Subordinate Civil Courts, the court was not entitled to allow the fee in question. The rule provides that a certificate should be filed by the legal practitioner together with an affidavit made by his client or the latter's 'authorized' agent. The word 'authorized' does not appear in the corresponding rule of the High Court. It seems the word is rather redundant. A man cannot be the agent of another unless he is 'authorized'. It is not

contended that the authority to pay the fee and to make the affidavit must be in writing. We think that the affidavit in this case prima facie at least complied with the rules and, in the absence of other circumstances, the certificate of the pleader accompanied by the affidavit in question was a sufficient compliance with the rule. We allow the appeal and direct that the decree of the court below be amended by allowing the fee of the pleader. As this question was not raised by the opposite party, but by the court itself, we make no order as to costs. As the respondent has not paid court fees, we reject the objection.

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