

In Re: a Vakil of Beawar

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Court : Allahabad

Decided On : Apr-29-1930

Reported in : AIR1930All887

Appellant : In Re: a Vakil of Beawar

Judgement :

1. This is a case in which the Bench has been constituted to hear an objection by the Bar Council to enrolling a gentleman as an advocate of this Court who is already enrolled as a vakil of the Court. The applicant for enrollment, Mr. Raj Narain, took his degree of Bachelor of Laws at Lucknow University in 1928. On 24th July 1928, he was enrolled as a vakil of this Court. He subsequently went to Ajmere. His counsel, Mr. Shabd Saran, cannot inform us in virtue of what authority Mr. Raj Narain began to practise in Ajmere, but we have little doubt that we are right in assuming that he applied to be enrolled as a pleader entitled to practise in Ajmere under Regn. 9 of 1926. He now has applied for the entry of his name as an advocate on the rolls of this Court by virtue of the rules made under Section 9, Bar Councils Act (38 of 1926), and in particular, of Rule 1, Proviso (a) which reads as follows:

Provided, firstly, that a person who is a graduate in law of any such scheduled University...and has been...enrolled as a vakil...prior to 31st March 1929, may be admitted to the roll of advocates on presenting a certificate that he has bona fide practised in one or more of the Courts subordinate to the Allahabad High Court for a period of not less than one year.

2. The only contention that has arisen in this matter is as to whether the Courts at Ajmere can be regarded for the purposes of enrollment as an advocate here as Courts subordinate to the Allahabad High Court. It is clear that generally speaking the Ajmere Courts are not subordinate to this Court in the matter of civil jurisdiction: see Section 3(2), Regn. 9 of 1926 (published in the Government of India Gazette on 2nd October 1926 and which came into force on 23rd December 1926). For the applicant it has been urged that in certain special matters the Ajmere Courts are subordinate to this Court. In respect of two of these matters we do not think that the contention is well-founded. We have been referred to the fact that in certain cases of disputes as to income-tax, the income-tax officer can or must refer the matter under Section 66(a) to this Court. But the fact that an income-tax officer must refer a matter to this Court can have no bearing on the question whether the Courts of Ajmere are subordinate to this Court or not. Similarly reference has been made to the fact that the repealed Press Act, 1 of 1910 (which it is suggested has been embodied in a recent Ordinance) provided in certain cases for this Court considering the propriety of an order of Government forfeiting a press in Ajmere. This again can manifestly have no bearing on the relations between the Courts in Ajmere and this Court. There is, however, greater force in the argument for the applicant in reference to two other cases where this Court does exercise jurisdiction in matters arising in or dealt with by the Courts in Ajmere.

3. Regulation 9 of 1926, Section 27, expressly saves jurisdiction over European British subjects from the provision which declares the Judicial Commissioner to be the High Court in matters on the criminal side, and another notification declares this Court to be the High Court in such matters. Similarly in certain matters this Court is the High Court for purposes of matrimonial jurisdiction. Further on behalf of the applicant we have been referred to three cases in which a man practising in Ajmere has been admitted to the rolls of this Court as an advocate on the strength of his having practised in Ajmere. But those three cases are irrelevant to the one before us for in all three of them the one year's practice which was relied upon was prior in date to the coming in force of Regn. 9 of 1926, and therefore such practice was at the time of the practice capable of constituting a good qualification, the Courts in Ajmere being at that time subordinate to this Court.

4. There is only one of the contentions before us on behalf of the Bar Council with which we think it necessary to deal. It has been urged that the present rules framed under Regn. 9 of 1926 make full provisions for dealing with offences of the nature of professional misconduct committed by a vakil practising in the Ajmere Courts; and it is suggested that it would be undesirable to admit anybody to the rolls of the advocate here if he could not be dealt with by this Court. If there were any force in that argument it would be a good reason for striking anybody off the rolls of vakil of this Court on the ground that the Court had no jurisdiction to deal with him. But in fact we think it is desirable to put plainly on record our opinion that the mere fact that the Ajmere Court might have power to deal with a legal practitioner and did not choose to exercise that power, would in no way whatever prevent this Court, if it thought fit, taking action against that legal practitioner if he was on the rolls of this Court as a vakil or as an advocate.

5. The only consideration, then, which are really material to the decision of this application are, in our opinion, firstly, that broadly speaking the Courts at Ajmere are not subordinate to this Court: and, secondly, that in two comparatively rare matters those Courts are subordinate. It remains for us to interpret the word 'subordinate' as used in the rules framed under Section 9 in the spirit in which we think there can be no doubt that it was used. There is no reason whatever for supposing that in using the word 'subordinate' the framers of the rules had in mind the very exceptional cases in which the Ajmere Courts are subordinate to this Court. We think therefore that the right way of interpretation of the proviso with which we are dealing is that 'practised in one or more of the Courts subordinate to the Allahabad High Court 'means' practised in one of the Courts in this province.' We think, therefore, that the application for enrollment as an advocate was rightly refused. The applicant will be informed that his application is refused.