

In Re: a Pleader

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Court : Chennai

Decided On : Sep-11-1944

Reported in : AIR1945Mad55

Appellant : In Re: a Pleader

Judgement :

Leach, C.J.

1. Respondent 1 is a pleader practising at Tiruppur. Respondent 2 is a pleader practising at Coimbatore. They were instructed by the Official Receiver of Coimbatore to institute certain legal proceedings on his behalf. Respondent 1 was concerned with proceedings at Tiruppur and respondent 2 with cases at Coimbatore. They have been charged with professional misconduct. Two charges were framed. The first charge, which only applied to respondent 1, was to the effect that he had withdrawn moneys from Court in cases in which he was appearing on behalf of the Official Receiver, Coimbatore, and that he utilized them for his own purposes. The second charge which applied to both the respondents was that they were guilty of 'professional misconduct and grossly negligent and improper conduct' in that they had allowed various suits in which they were instructed to appear to be dismissed for default without intimation to the Official Receiver and without his instructions. The second charge is merely one of negligence and negligence does not amount to professional misconduct. The District Munsif who held an inquiry gave a decision to this effect. With regard to the first charge it transpired in the course of the inquiry that respondent 1 had been

charged in a criminal Court with misappropriation of these moneys. He had been found not guilty and on appeal this decision had been concurred in by this Court. As respondent 1 has been acquitted in a criminal Court, this Court must accept the decision. There is a definite finding in regular proceedings that respondent 1 has not misappropriated these moneys and that has to be accepted. The result is that the second charge against both the respondents and likewise the first charge against respondent 1 are dismissed.

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