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Case Comment: P D Gupta v Ram Murti & Anr

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Case Title: P D Gupta v Ram Murti & Anr¹

Case Number: (1997) 7 SCC 147

Date of Order: 08/07/1997

Quorum: Hon'ble Mr. Justice S.C. Agrawal, Hon'ble Mr. Justice D.P. Wadhwa
Yogesh Jain

Petitioner: P D Gupta

Respondent: Ram Murti & Anr

Counsel for Appellant: Mr. Y.K Jain

Acts and Sections Involved: Sec 49(1)(c) Advocates Act 1961

¹ P D Gupta v Ram Murti & Anr (1997) 7 SCC 147

INTRODUCTION

This case deals with the conduct of the advocate named P.D GUPTA who appeared as an advocate for the appellant named Vidyawati. The jurisdiction of the supreme court questioned the conduct of Advocate P D Gupta under Sec 49(1)(c) Advocates Act 1961² and subsequently declared that the conduct is misconduct and it is against the provision of law and also violated the guidelines mentioned under the bar council of India. So, In this paper, we are going to make an analysis of this verdict passed by the supreme court.

FACTS OF THE CASE

In this case, the deceased named Sri Kishan Das is the owner of the two-floor built property. The appellant named Vidyawati claimed to be the one and only legal heir and sister of the deceased Sri Kishan Das. The appellant filed a suit of injunction against the respondent named Ram Murti and two other persons asserting themselves to be the legal heir of that property by propounding three different wills by stating that those wills were made by the deceased to them. The above suit is filed by the appellant Vidyawati to restrain the respondent Ram Murti from trespassing on the property in the high court of Delhi and also the appellant filed the petition under sec276 of the Indian Succession Act,1925³ in the district court of Delhi for obtaining the administrative authority of the property of the deceased named Sri Kishan Das. The respondents have filed the petition under sec276 of the Indian succession act, 1925⁴ in the district court of Delhi for ascertaining the dispute present in the property of the deceased named Sri Kishan Das regarding the inheritance of it. But during the pendency of the suit of injunction, the advocate of the appellant named P.D Gupta purchased that disputed property from Vidyawati and sold it to Suresh Kumar for Rs 3,60,000 and accrued some profit to Vidyawati and some of it to himself.

² Advocates Act 1961, s 49(1)(c)

³ Indian Succession Act 1925, s 276

⁴ *Ibid*

ISSUES

- Whether the advocate of the appellant has the right to sell the property during the pendency of the suit where that property is subjected to the matter of dispute between the parties in the court.
- Does the conduct of the advocate of the appellant comply with professional ethics?
- Whether the Bar Council of India will justify the conduct of the appellant's advocate.

ARGUMENTS FAVOUR OF APPELLANT

The Petitioner contends that she has the legal right to inherit the property of the deceased Sri Kishan Das by claiming herself to be the sister of the deceased and also she filed the suit under section 276 of the Indian Succession Act 1925⁵ for holding the administrative authority of the property of the deceased and she also asserted that the respondent had no relations with the deceased by stating that the will propounded by the deceased is the fraudulent one which was done upon the name of the respondent.

ARGUMENTS IN FAVOUR OF RESPONDENT

The Respondent contends that the petitioner is not entitled to inherit the deceased property as she did not genuinely disclose her identity and she did not clearly describe the relationship with the deceased as like half, full or real sister of the deceased which was well known to P.D Gupta as Vidyawati herself had described the above to her advocate. Even apart from knowing the above facts which were conveyed by the Appellant, P.D Gupta purchased that property of the deceased from Vidyawati and had sold it to Suresh for Rs 3,60,000 and also he contended that the three different wills propounded by the deceased is not the fraudulent (or) forged one.

⁵ *Ibid*

RELATED CASE LAWS

Noratanmal Chaurasia v M R Murli:⁶ In this case, the court held that misconduct is wide enough to include wrongful commission or omission, whether done or omitted to be done intentionally or unintentionally but the word misconduct is not defined under the Advocates Act 1966. It envisages the breach of discipline although it would not be possible to lay down exhaustively as to what would constitute misconduct and indiscipline.

Prof. Krishanraj Goswami v The Reserve Bank of India:⁷ In this case, the court held that the advocate had voluntarily caused the disgrace by intentionally and with full knowledge of violating the rules of the bar council thereby making an inordinate delay in filing the suit. So this misconduct of the advocate affected the client as they thereby faced losses as a consequence of the misconduct of the advocate.

Smt Sudesh Rani v Munish Chandra Goel:⁸ By suppressing the fact that an earlier compromise decree was passed wherein the tenants were declared as owners of the said property the advocate of the respondent had filed the suit for eviction of the tenants and also concealed the material facts as his wife and he were involved in the compromise of the suits. So, in this case, the court held that the advocate was found guilty of misconduct and suspended for two years.

Sambhu Ram Yadav v Hanuman Das Khatri:⁹ The advocate of the bar council of Rajasthan was declared by the district court as 'unfit to be a lawyer' as he stated that the judge asked for bribes and attempted to influence the judge to give a favorable order.

INTERPRETATION MADE BY THE COURT

The Supreme Court asserted that the conduct of the advocate should be genuine, fair and transparent. It should serve not only justice to their own client but also to the court and as well as to the opposite party in the proceeding of the case. On the aspect of the administration of

⁶ *Noratanmal chaurasia v M R murli* (2004) 5 SCC 689

⁷ *Prof. Krishanraj Goswami v The Reserve Bank of India* (2007) Bom CR 565

⁸ *Smt Sudesh rani v munish chandra goel* (2002) SC 427

⁹ *Sambhu ram yadav v Hanuman das Khatri* (2001) SC 2509

justice, the Supreme Court stated that justice should be administered in a transparent manner and the stream of justice should be kept clean with purity.

The Supreme Court also asserted that the administration of justice is not something that concerns only the bench but it concerns the bar as well. Thus the supreme court accepted the decision of the bar council of India which stated that the conduct of the appellant's advocate PD Gupta is professional misconduct by quoting that there is no bar for lawyers to purchase the property but on the account of common prudence especially a law known person will never prefer to purchase the property, where in the title of such property is under doubt.

ORDER OF THE CASE

The Supreme Court stated that the petitioner's Advocate is held guilty of misconduct and suspended him from the practice of law for the period of one year.

CONCLUSION

As we know that the legal profession is governed (or) maintained by the adherence and observance of the set of professional norms so, the persons who profess this profession should follow it but in this case, P.D Gupta has violated the ethics of the legal profession as he had sold the disputed property while the suit was in bending so here his conduct is the forbidden act, also the unlawful and wrongful behaviour. Therefore, the core duty of the advocate is not to indulge in subject matters of dispute for personal gain and he should always follow the guidelines of the bar council of India.

The bar council of India is the statutory body and it frames the rules and provides guidelines for regulating the conduct of the advocate under the Advocate Act of 1961. Hence, the bar council of India is the representative body of advocates on their rolls and is charged with the responsibility of maintaining discipline among the advocate.

'Some of the guidelines and rules which were provided by the bar council of India for regulating the conduct of the advocate are as follows:

- Act in a dignified manner;
- Refuse to represent clients who insist on unfair means;
- Not appear in matters of pecuniary interest;
- Refuse to act in an illegal manner towards the opposition;
- Not communicate in private;
- Uphold the interest of the client;
- Not disclose the communications between the client and himself;
- Not suppress material or evidence.¹⁰

OBSERVATIONS MADE BY THE BAR COUNCIL OF INDIA

- PD Gupta already knew that the title of that property was in doubt and finally, it had concluded that the fact that the conduct of PD Gupta conducting the case of his client has commanding status and can also exert influence on his client where such conduct of the advocate depicts professional misconduct.
- Hence, the disciplinary committee of the Bar Council of India held that the appellant's advocate is guilty of professional misconduct and imposed the punishment of suspension for one year.

¹⁰ 'Rules on Professional Standards' (*Bar Council of India*)

<<http://www.barcouncilofindia.org/about/professional-standards/rules-on-professional-standards/>> accessed 07 March 2023