

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1381 OF 2006

USHA RANI KAUSHIK

... Appellant

VERSUS

MEENAKSHI DEVI

... Respondent

O R D E R

The present appeal, preferred under Section 38 of the Advocates Act, 1961, calls in question the order of punishment passed by the Disciplinary Committee of the Bar Council of India debarring the petitioner to practice in any Court or before any authority or person within the period of suspension which has been determined to one year and further to pay costs of Rs.10,000/- (Rupees ten thousand only) within a period of two months from the date of communication of the order. It has also been directed by the impugned order that after the costs is deposited, Rs.5,000/- (Rupees five thousand only) to be paid to the complainant and the remaining amount shall stand transferred to the Bar Council of India Advocates Welfare Fund.

Assailing the aforesaid order, it is submitted by Mr. Rudreshwar Singh, learned counsel for the appellant that he has filed a suit for specific performance of the contract on 1.7.1998 and the complainant had entered appearance. She filed a written statement on 18.3.1999 alleging, *inter alia*, that the agreement is a fraudulent one. After filing the written statement, the respondent initiated a complaint before the Bar Council of Delhi on 24.5.1999 putting forth the grievance that the appellant was a

tenant and fraudulently got an agreement executed.

As the Bar council of Delhi did not decide the matter within one year, the matter stood transferred to the Bar Council of India and was registered as BCITR Case No.189 of 2000.

When the matter was called on the last occasion, none appeared for the respondent. None has appeared today. In our considered opinion, when the suit was filed for specific performance of the contract and in the written statement, the stand had been taken that the documents was a fraudulent and fabricated one, the Bar Council of India should have been well advised, in the peculiar facts of the case, not to advert to the same and pass an order of suspension. In any case, if in the civil suit, a finding is returned that the agreement is fraudulent or fabricated, the respondent can initiate a proceeding before the Bar Council of India.

Resultantly, the appeal is allowed and the order passed by the Bar Council of India in BCITR Case No.189 of 2000 is set aside. However, liberty is granted in the previous paragraph shall remain in vogue. As the respondent has not appeared, question of imposing any costs does not arise.

.....,J.
(Dipak Misra)

.....,J.
(A.M. Khanwilkar)

.....,J.
(Mohan M. Shantanagoudar)

New Delhi;
February 21, 2017.

ITEM NO.101

COURT NO.2

SECTION IIIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1381/2006

USHA RANI KAUSHIK

Appellant(s)

VERSUS

MEENAKSHI DEVI

Respondent(s)

(with office report)

Date : 21/02/2017 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s) Mr. Rudreshwar Singh, Adv.
Mr. Vivek Vardhan, Adv.
Mr. Gautam Singh, Adv.
Ms. Isha Singh, Adv.
Ms. Snehil Sonam, Adv.
Mr. Kaushik Poddar, AOR

For Respondent(s) Mr. Ram Swarup Sharma, AOR (NP)

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order and the order passed by the Bar Council of India in BCITR Case No.189 of 2000 is set aside. However, liberty is granted in the previous paragraph shall remain in vogue. As the respondent has not appeared, question of imposing any costs does not arise.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)