

## Brajendra Nath Bhargava (Dead) by Lrs. Vs Ramchandra Kasliwal and Another

**Court:** Supreme Court of India

**Date of Decision:** March 20, 1997

**Acts Referred:** Bar Council of India Rules, 1975 " Rule 22, 9

**Citation:** AIR 1999 SC 2866 : (1999) AIRSCW 2421 : (1998) 7 JT 621 : (1999) 2 RLW 199 : (1998) 9 SCC 169

**Hon'ble Judges:** A. M. Ahmadii, C.J; S. P. Kurdukar, J; K. S. Paripoornan, J

**Bench:** Full Bench

**Final Decision:** Allowed

### Judgement

@JUDGMENTTAG-ORDER

1. The appellant is the original complainant who had lodged a complaint with the Bar Council of Rajasthan, Jodhpur against the respondents who

were then practising as advocates in the courts in Rajasthan. The complainant happened to be a tenant of a showroom. His landlords had filed the

suit against him for arrears of rent and possession on 21-12-1974. S/Shri K.L. Saxena and Satyandra Saxena represented the plaintiffs in that suit.

Later on, the two respondents appeared on behalf of the plaintiffs. A standard rent suit was filed by the landlord represented by the two

respondents against the complainant bearing No. 36 of 1978 and that suit was later decreed and the standard rent was fixed at Rs 300 per month.

Thereafter, it is alleged that the respondents got the showroom transferred in the name of the respondent R.C. Kasliwal's sons, Sarvshri

Harshwardhan and Himanshu and Smt Ritu Kasliwal. The allegation was that the vendees were non-earning members of the family of the two

respondents and were, therefore, benamidars. The two respondents continued to represent them in the suit even after the transaction. The two

respondents have admitted the fact of the institution of the two suits and their being engaged as advocates for the original plaintiffs and also the fact

that the property in question was purchased by the aforesaid three family members but they contended that the consideration was paid by the

vendees out of their own funds.

2. After examining the facts of the case and the behavior of the two respondents as representing the original plaintiffs in the two suits, the State

Disciplinary Committee came to the conclusion that it was a benami transaction as no evidence was led on record to show that the vendees had

paid the consideration out of their own funds. The Disciplinary Committee, therefore came to the conclusion that there was an infringement of Rules

9 and 22 of the Bar Council of India Rules. The Committee, therefore, recorded a finding of guilt, professional misconduct and directed that the

respondents be reprimanded for their action. The State Bar Council, therefore, visited the respondents with the punishment of reprimand and cost

of Rs. 300.

3. Against the said finding recorded by the State Bar Council, the two respondents filed an appeal before the Disciplinary Committee of the Bar

Council of India which after hearing the parties, came to the conclusion that the character of the transaction being benami was not established, that

there was misconduct committed by the present respondents and that the State Bar Council was in error in visiting the respondents with the

punishment of reprimand and cost. The Bar Council of India, therefore, set aside the order of the State Bar Council dated 8-9-1991 and

exonerated the two respondents. That is why the original complainant has moved this Court.

4. Having carefully examined the evidence on record and the conduct of the two respondents herein and having heard the learned counsel for both

the sides, we are satisfied that the conduct of the respondents was not unblemished and that they had played a part in securing the property in the

name of benamidars while they were representing one of the parties to the suit. The Bar Council of India was, therefore, wrong in thinking that the

conduct of the respondents was unblemished. The technical objections raised on the interpretation of Rules 9 and 22 of the Bar Council Rules, in

our opinion, should not weigh because what is important is to ascertain if the respondents were guilty of misconduct and if yes, to ensure that they

are visited with some penalty. The State Bar Council visited the two respondents with a mild penalty of reprimand and payment of cost quantified

at Rs 300. We do not think that the Bar Council of India was justified in interfering with the order made by the State Bar Council because one

thing is clear from the evidence that the two respondents had taken an active interest in getting the property transferred to the names of their

relatives and practically evidence was laid to show that the consideration had come out of their funds. In a situation like this, we think that the Bar

Council of India ought not to have interfered with the action taken by the State Bar Council. We, therefore, set aside the order of the Bar Council

of India by allowing this appeal and direct the respondents to suffer the sentence imposed upon them by the State Bar Council,

5. In the result, we allow this appeal, set aside the order of the Bar Council of India impugned herein. We, however, make no order as to costs.