

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[THROUGH VIDEO CONFERENCING]

DATED : 26.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P. No.5000 of 2019
and
W.M.P. No.5709 of 2019

R.V.Venkatesan Petitioner

Vs.

1.The Disciplinary Committee No.1/
The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
Bar Council Building,
High Court Campus,
Chennai - 600 104.

2.Iqbal Shahul Hameed Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records and quash the proceedings dated 30.10.2018 in D.C.C. No.389 of 2018 pending on the file of the first respondent, the Bar Council of Tamil Nadu and Puducherry, before the Disciplinary Committee No.1 against the petitioner.

For Petitioner : Mr.Mohan R.S.

For 1st Respondent : Mr.M.Fakkir Mohideen

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O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN,J.)

The petitioner/advocate has come before this Court, challenging the bar council proceedings dated 30.10.2018 in D.C.C.No.389 of 2018, by which, he has been called upon to participate in the proceedings against him, based on the complaint given by the second respondent.

2. The second respondent gave a complaint stating that he was running a company and in the course of his business transactions for the Government of Dubai, he got materials from M/s. Prakash Trading Company and supplied it to the contractors working for Government of Dubai. Due to the global financial crisis, he could not be able to get the amount from his debtors and in turn, the complainant also could not be able to repay the amount to M/s.Prakash Trading Company. However, the complainant has filed a civil suit before the Dubai Court for payment of compensation of loss due to non-payment from his debtors and the Case No.243 of 2016 is pending for enquiry.

3. The second respondent further stated that the petitioner herein claiming to be the power of attorney of M/s.Prakash Trading Company lodged a complaint before the K3 Police Station, Aminjikarai, Chennai and after thorough enquiry, the complaint has been closed as civil dispute. Suppressing the above facts, the petitioner herein is stated to have approached the learned V Metropolitan Magistrate Court, Chennai and got an order to register an F.I.R. against the second respondent and his two brothers in Crime No.1240 of 2017. When questioned, the petitioner has abused the second respondent. Thereafter, a complaint was given to the Bar Council. The Bar Council issued the notice.

4. The case of the petitioner herein is that he is only the power of attorney holder and the principal is in Dubai and whatever action he has taken is only as power of attorney and not as an advocate. Therefore, he prays for dropping of the complaint. However, the Special Committee referred the matter to the Disciplinary Committee by way of a Resolution No.634 of 2019 dated 28.09.2018. The said resolution is being challenged before this Court.

5. Heard Mr.Mohan, learned counsel for the petitioner and Mr.M.Fakkir Mohideen, learned counsel appearing for the first respondent.

6. Mr.Mohan, learned counsel for the petitioner would submit that the petitioner has already filed a detailed counter affidavit giving the details of his defence and also questioning the maintainability of the complaint before the Bar Council of Tamil Nadu as the act alleged does not come either under professional act or professional misconduct.

7. When this is the position, it would be sufficient to direct the Disciplinary Committee No.1 of Bar Council of Tamilnadu and Puducherry to decide about the maintainability of the complaint as a preliminary issue during the hearing on 01.03.2019. If any order is passed and it is adverse to the

interest of the petitioner, it is always open to the petitioner to approach this Court.

7. With the above direction and observation, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sj

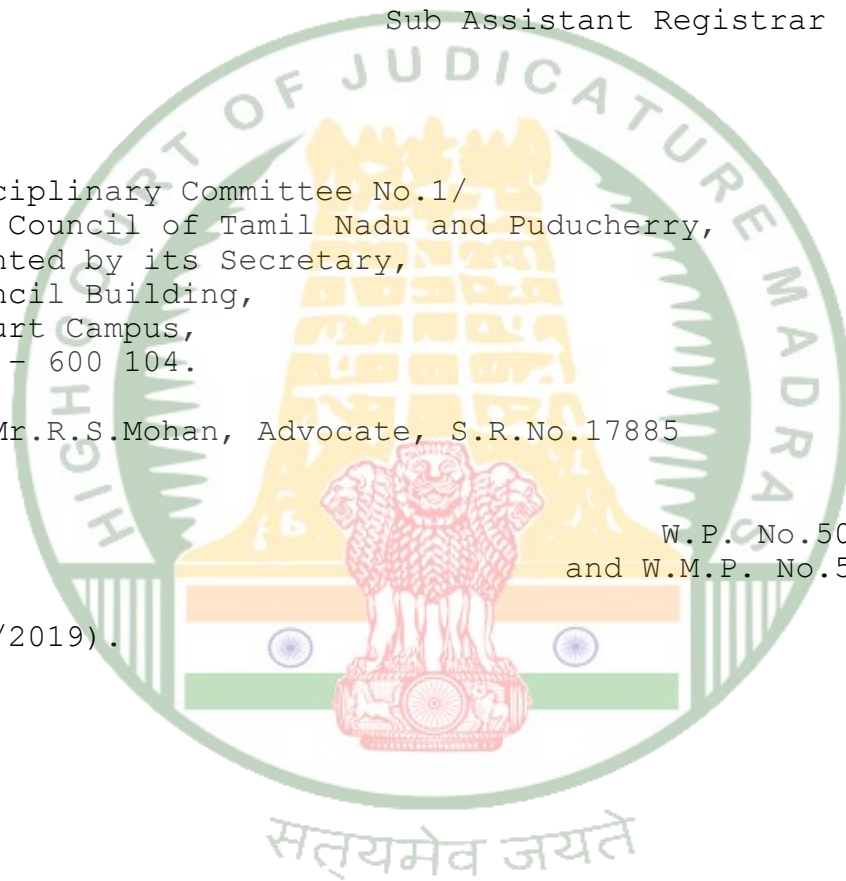
To

1.The Disciplinary Committee No.1/
The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
Bar Council Building,
High Court Campus,
Chennai - 600 104.

+1 cc to Mr.R.S.Mohan, Advocate, S.R.No.17885

W.P. No.5000 of 2019
and W.M.P. No.5709 of 2019

RSV(CO)
SSM(20/03/2019).



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