**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

SECOND APPEAL NO. 136 OF 2016
WITH
CIVIL APPLICATION NO. 2054 OF 2016

Dena Bank and Anr. **....Appellants.**

**Versus**

Vasantrao Rameshchandra Wani **....Respondent.**

Mr. S.V. Adwant, Advocate for appellants.
Mr. J.R. Shah, Advocate for respondent.

**CORAM : T.V. NALAWADE, J.**
DATED : 23rd June, 2016.

**ORDER :**

1. The appeal is filed against the judgment and decree of Special Civil Suit No. 181/2007, which was pending in the Court of Civil Judge, Senior Division, Jalgaon and also against the judgment and decree of Regular Civil Appeal No. 172/2014, which was pending in the Court of Ad-hoc District Judge-1, Jalgaon. The suit filed by present respondent, one advocate for recovery of professional fees along with interest is decided in his favour and the appellant bank is directed to pay the fees of Rs. 6,77,664/- along with interest at the rate of 12% p.a. The future interest is given at the rate of 9% p.a. Both the sides are heard.

2. The plaintiff was appointed as Advocate by the appellant bank in two matters like Special Civil Suit No. 332/1996 and one Criminal Case No. 823/1996. Both the matters were filed by the same party and they were filed against the bank and the plaintiff. The suit was filed for recovery of amount of Rs. Ten Crore as damages in respect of defamation and criminal case was filed for offence punishable under section 500 of the Indian Penal Code. Both the matters are decided in favour of bank.

3. It is the case of plaintiff Advocate that he had given notice to bank to give professional fees of both the matters, but the bank did not give the amount and so, cause of action took place for the suit. In criminal matter, the fees in respect of criminal revision was also claimed and so, the aforesaid amount was in respect of the proceedings filed by one debtor of the bank.

4. Defendant Bank contested the matter by contending that there was special agreement in respect of fees and as per that agreement, plaintiff is entitled to get Rs. 50,000/- only towards professional fees and Rs. 2,000/- towards expenses. It was contended that the notice given by the plaintiff was replied.

5. Before the Trial Court, plaintiff produced the relevant record which include the decree prepared to ascertain the fees, notice etc. This record shows that as per the decree, in the bill of costs, the Court had directed to pay Rs. 6,25,664/- to each defendant. Plaintiff was claiming this amount and he was also claiming some amount in respect of the criminal case and the revision.

6. The learned counsel for the appellant, bank submitted that after decision of the aforesaid Civil Suit, execution proceeding was filed by the present plaintiff against the said customer of the bank for recovery of the cost amount to which he was entitled as defendant. He submitted that plaintiff compromised the matter with the said customer and accepted Rs. One lakh in place of Rs. Six lakh and this circumstance needs to be considered. This Court holds that the said circumstance has no relevance with the present matter. The said amount was awarded to defendant and it was the matter between the defendant and plaintiff of that suit. Admittedly, present respondent plaintiff had represented the bank as an Advocate and he is claiming professional fees in respect of those matters. The learned counsel for original plaintiff took this Court through

various provisions of Civil Manual prepared by this High Court. He took this Court through para No. 640 and 641 and also Schedule A prepared for para No. 640. It is not disputed that the aforesaid amount calculated in respect of civil suit is on the basis of Rules framed under Schedule A for para No. 640 of Civil Manual. Meager amount is claimed in respect of two criminal proceedings already mentioned.

7. The record shows that the bank did not produce any record showing agreement between the bank and the Advocate. Even letter which could have been issued by bank during pendency of the aforesaid suit is not produced. It appears that after disposal of the matters when the plaintiff demanded professional fees, one letter was sent by the bank in which inability was shown to make the payment of demanded amount and lesser amount was offered. Thus, there was no agreement as such in between bank and the plaintiff for making payment of the fees. No Rules are produced to show that as per the Rules of bank, only particular amount can be given to the plaintiff. He was appointed Advocate for bank for more than 30 years, but unfortunately the bank did not produce record to show that there was other practice which was used for fixing the fees. In view of these circumstances, it can be said that the fees which can be

calculated under the aforesaid provisions of Civil Manual, which can be treated as minimum fees need to be paid by the bank. This Court holds that the interest awarded is also not on higher side. No substantial question of law as such is involved in the matter. In the result, the appeal stands dismissed. Civil Application is disposed of.

**[ T.V. NALAWADE, J. ]**

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