

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1200 OF 2016
IN
WRIT PETITION NO. 890 OF 2015**

**Balkrishna Govind Midge
Vs.
The Director Dhanesh Auto
Electricals Ltd & Ors.**

..Applicant

..Respondents

**Mrs. Prabha Badadare i/b Mr. P R. Arjunwadkar for the Applicant
Mr. Prakash Shinde i/b MDP & Partners for the Respondent Nos.1 and 2**

**CORAM : R. M. SAVANT, J.
DATE : 23rd AUGUST, 2016**

P.C.

1 The above Civil Application has been filed for restoration of the above Writ Petition and also for condonation of delay of 3 months in filing the above Civil Application. Normally this Court would have condoned the delay as also restored the above Writ Petition, however, the facts in the above Writ Petition are some what peculiar and are reflected in the order dated 9-12-2015 passed by a Learned Single Judge of this Court N. M. Jamdar J. whilst dismissing the above Writ Petition. The Learned Judge in the said order dated 9-12-2015 has referred to the order dated 23-11-2015 passed by him in the said Writ Petition. The said extract is reproduced hereinunder for the sake of ready reference:

“By the Writ Petition No.890 of 2015, the

Petitioner who is a practising advocate has sought to quash the orders passed by the Labour Court and the Industrial Court. An application was filed by the Respondents for discharging the Petitioner. In the said application the Petitioner called upon the Labour Court to fix the quantum of fees payable to him which the Labour Court and Industrial Courts have done. Once these Courts have decided, irrespective of the question whether they have the power to do so, the factum of fees, it is not

expected, neither it befits an Advocate to keep litigating on fees and to bring the matter to this Court in its equitable jurisdiction and call upon this Court to fix his professional fees. This was made clear to the learned counsel for the Petitioner on the earlier occasion. However the matter does not rest at that, when another petition bearing No.10459 of 2015 came up on board, it was noticed from the impugned order that in similar circumstances in respect of some other litigant, the concerned Advocate Mr.Balkrishna Govind Midge has created various difficulties in proceeding with the matter, which the learned Judge has observed in the impugned order. Such conduct on the part of an Advocate has to be deprecated. An Advocate is not expected to conduct himself as an ordinary litigant and must uphold high standards of the profession.

2. Request is made on behalf of the Petitioner for adjournment. Place the Writ Petition No.890 of 2015 for dismissal on 9 December 2015.

3. As regards Writ Petition No.10459 of 2015 is concerned, it appears that the proceedings are being held up since the discharge application filed by the Petitioner therein of Mr.Midge has not been decided by the Labour Court. The Labour Court Satara, before the next date shall decide the application filed by the Petitioner for discharging their Advocate. Registry to communicate.”

2 The subject matter of the above Writ Petition No.890 of 2015 are the orders passed by the Labour Court and the Industrial Court by which order the said Courts have fixed the fees of the Petitioner. In so far as the said aspect is concerned, the Learned Judge has observed that once the said Courts had fixed fees irrespective whether they had the jurisdiction to do so, it was not befitting for the Petitioner to go on litigating in respect of the same. The conduct of the Petitioner who is an Advocate is also seen from the fact that the Learned Judge has referred to Writ Petition No.10459 of 2015 wherein in similar circumstances in respect of some other litigant, the Petitioner Mr. Balkrishna Midge has created difficulties in proceeding with the matter which conduct has been recorded by the Learned Judge in the impugned order. The Learned Judge has lastly observed that such conduct of an Advocate has to be deprecated and an Advocate is not expected to conduct himself as an ordinary litigant and must uphold high standards of profession. Hence though the above Writ Petition has been dismissed for non prosecution what has weighed with the Learned Judge whilst dismissing the Petition by order dated 9-12-2015 is the conduct of the Petitioner as an Advocate.

3 In my view, one could not agree more with the observations made by the Learned Single Judge in the order dated 9-12-2015. This is a case where any indulgence shown to the Petitioner would amount to laying a premium on the conduct of the Petitioner. It is also required to be noted that

the Petitioner was given an opportunity and thereafter the Petition was kept for dismissal. In my view therefore, no case for condonation of delay as also for restoration of the above Writ Petition is made out, the Civil Application is accordingly rejected.

[R.M.SAVANT, J]