

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 1498 OF 2001

Dinesh Thacker ... Plaintiff
Versus
The Royal Western India Turf Club & Ors. ... Defendants

Ms. Harshta Joglekar i/b. Yashpal Jain for the Plaintiff.

Mr. Aditya Shiralkar i/b. Shiralkar and Company for Defendant Nos. 1 to 8 and 10 to 12.

CORAM : S.J. KATHAWALLA, J.
DATED : 8TH JANUARY, 2016

P.C.

1. The above Suit is pending in this Court since the last 15 years. On 23rd September, 2015, the Plaintiff was granted time upto 17th October, 2015 to file his List of Witnesses, Affidavit-in-Lieu of Examination-in-Chief together with the compilation of documents. The Plaintiff failed to comply with the directions of this Court dated 23rd September, 2015, and did not file his List of Witnesses, Affidavit-in-Lieu of Examination-in-Chief and Compilation of Documents on or before 17th October, 2015. Even on 26th November, 2015, when the Suit appeared on Board, the Plaintiff had not complied with the Order dated 23rd September, 2015, instead on 26th November, 2015, the Advocate for the Plaintiff informed the Court that they are seeking a discharge in the matter. The matter was therefore adjourned. On 14th December, 2015, the Advocates who were seeking a discharge in the matter informed the Court that the Plaintiff is still in the process of considering whether to retain them as their Advocates. In the premises, this Court (Coram : S.C. Gupte, J.) by its Order dated 14th December, 2015, after recording the above, and as and by way of a

last opportunity granted time to the Plaintiff to file his List of Witnesses, Affidavit of Documents, and to serve copies on the Defendants on or before 7th January, 2016.

2. Today, when the Suit is called out, the Advocate for the Plaintiff informs the Court that they are seeking a discharge in the matter. The Plaintiff has admittedly not complied with the last opportunity given by this Court on 14th December, 2015, to comply with the Order dated 23rd September, 2015 i.e. to file the List of Witnesses, Affidavit-in-Lieu of Examination-in-Chief along with the compilation of documents.

3. From the aforesaid facts, I am convinced that the Plaintiff as well as his Advocates are indulging in sharp practices by repeatedly taking time from this Court on the ground that the Plaintiff is seeking to discharge his current Advocates and thereafter again informing the Court that the Plaintiff is considering retaining the same Advocates, and are thereby repeatedly avoiding to comply with the Order passed by this Court dated 23rd September, 2015. Such a practice cannot be tolerated by the Court from any party and or their Advocates. It is the duty of the Advocates to tell the Client that until he decides to discharge the Advocate, the Advocate is bound to take steps to comply with the orders passed by the Court, and cannot permit the client to use such a practice as a mere excuse to obtain time from the Court and thereby delay the progress of the trial.

4. In the above circumstances, the Suit is dismissed.

(S.J.KATHAWALLA, J.)