

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 774/2019
(KISHOR DATTATRAYA DESHPANDE VERSUS MURLIDHAR KESHAVRAO KULKARNI)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Anand P. Thakare, Advocate h/f Shri R.L.Khapre, counsel for petitioner.
Shri N.S. Khandewale, counsel for respondent.

CORAM : A.S. CHANDURKAR, J.

DATE : APRIL 26, 2019.

Heard.

The petitioner is aggrieved by the order passed by the Appellate Court below Exhibit 10 rejecting the application filed by the petitioner seeking permission to amend the plaint.

The petitioner has filed suit for recovery of an amount of Rupees Sixty Thousand which the petitioner claims was the amount of professional fees agreed to be paid by the respondent. In the plaint, averments in that regard have been made in paragraph 2. These averments have been denied by the defendant in his written statement. The suit has been dismissed by the trial Court. During pendency of the appeal, the application for amendment of the plaint for seeking to rely upon the schedule of fees prescribed by the Bar Council of Maharashtra and Goa is sought to be brought on record. The Appellate Court has rejected the application for amendment on the ground that there was absence of due diligence on the part of the complainant.

Heard the learned counsel for the parties and perused the documents on record. It can be seen that the suit in question was filed on 17.02.2010. After dismissal of the suit and during pendency of the appeal, the plaint was sought to be amended with regard to the schedule prescribing minimum fees. The Appellate Court has rightly held that there is absence of due diligence on the part of the plaintiff. It has further observed that the plaintiff intended to raise legal pleas in the plaint and this was not permissible. I do not find that the Appellate Court has committed any error in rejecting the application for amendment. By observing that the plaintiff is free to refer to the schedule prescribing minimum fees as drawn by the Bar Council of Maharashtra and Goa, as a document, there is no reason to interfere with the impugned order.

The Writ Petition is dismissed. No costs.

Hearing of the appeal is expedited.

JUDGE

APTE