

ary

Before: Shri S. S. Agate

Addl. Registrar (O.S.) /

Addl. Prothonotary and Senior Master

Date : 21st March, 2024.

CALLED FOR DIRECTION:

2. CHOL/84/2024
in
WP/2598/2023

) Mr. Vishnu Wani i/b Yusuf Khan, Advocate for
) the Applicants/Petitioners.
) Ms. Bhavika Solanki i/b Tushar Kochale, Advocate
) present for Orig. Petitioners.
) Ms. Triveni Jawale, Advocate for Respdent No.
) 10.
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) **P.C.:** 1. The present Chamber Order is taken
) out by the Applicants (Petitioner Nos. 1 to
) 19) for discharge of Advocate, Tushar
) Kochale as Advocate for Petitioners in Writ
) Petition No. 2598 of 2023.
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) 2. Perused Chamber Order and Affidavit
) in support. The ground for obtaining
) discharge is mentioned in paragraphs – 2
) to 4.
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) 3. The Ld. Advocate, Mr. Tushar Kochale
) has objected for the discharge by filing
) Affidavit in reply dated 18.03.2024. The
) main issue of contesting the discharge is
) only about the professional fees. It is
) stated in the reply that the Petitioners have
) never approached him seeking his No
) Objection, however in a clandestine
) manner through Khan & Khan (Law Firm)
) issued email dated 29.02.2024 making
) false allegations that he had refused NOC
) and file present Chamber Order making
) false statements on oath that NOC was
)
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...2/-

Contd. ...2/-

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) refused, as no such NOC was asked from
) him by the Petitioner.
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) 4. After going through the Chamber Order,
) Affidavit in support, Affidavit in reply and
) upon hearing the Ld. Advocates for
) Applicants/Petitioners and Tushar Kochale,
) I am of the view that discharge cannot be
) withhold only for non-payment of Advocate
) fees. The question of payment of fees is to
) be decided before the appropriate forum, if
) the claim is made to that effect. Normally,
) the professional fees is the contract outside
) the Court between the client and the
) Advocate and therefore, while considering
) the application for discharge of Advocate,
) the same cannot be gone into. The
) applicants have clearly indicated that they
) are not willing to continue the services of
) the Ld. Advocate, Tushar Kochale and
) prayed for discharge. While allowing the
) discharge, I have to see the intention of the
) party as prescribed in Bombay High Court
) O. S. Rules. It is clear that the applicant
) have substantially complied with the
) procedure for discharge of the Advocate as
) per Bombay High Court, O. S. Rules read
) with rules framed under the Advocates Act.
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) 5. In my view, the quantum of Advocate
) fees is a different issue and it could not be
) decided by the Ministerial Officer while
) granting the discharge and the contentions
) of the Ld. Advocate for payment of
) Advocate fees are kept open for argument
) if raised before the appropriate court, and,
) it will be appropriate if the Chamber Order
) is allowed.
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) 6. The Ld. Advocate appearing for
) Respondent No. 10 submits that copy of
)

) ...3/-
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Contd. ...3/-

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in

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Chamber Order and Affidavit in support are not served upon him.

7. The present Chamber Order is allowed and signed separately.

8. Advocate, Tushar Kochale is discharged as Advocate for Petitioners (1 to 19) in Writ Petition No. 2598 of 2023. Office to delete the name of Advocate, Tushar Kochale as Advocate for Petitioners. Petitioners to communicate this Order to Advocate, Tushar Kochale and thereafter, Petitioners to engage any other Advocate, if they so desire.

9. Chamber Order is disposed of. Order accordingly.

21.03.2024

**Addl. Registrar (O.S.) /
Addl. Prothonotary and Senior Master**