

ary

Before: Shri S. S. Agate

Addl. Registrar (O.S.) /

Addl. Prothonotary and Senior Master

Date : 21st March, 2024.

CALLED FOR DIRECTION:

3. CHOL/85/2024
in
WP/3729/2022

) 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.
)
)

) P.C.: 1. The present Chamber Order is taken out
) by the Applicants (Petitioner Nos. 1 to 66)
) for discharge of Advocate, Tushar Kochale
) as Advocate for Petitioners in Writ Petition
) No. 3729 of 2022.
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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/-

) 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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