



A.No.2251 of 2024
in C.S.No.119 of 2017

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Orders reserved on : 16.07.2024

Orders pronounced on : 26.07.2024

P.B.BALAJI, J.

This is an application filed by the defendants seeking a direction to the respondents 2 and 3, who are Advocates to refrain from appearing for the plaintiff and to withdraw their appearance.

2.I have heard Mr.C.P.Sivamohan, learned counsel for the applicants and Mr.G.Palani, learned counsel for the 1st respondent and he being the 2nd respondent in the application. I have also heard Mrs.R.Padmapriya, the 3rd respondent.

3.The grievance of the applicants/defendants is that the 2nd defendant had sought professional services of the Advocate, the 2nd respondent. A personal allegation is also made against the respondents 2 and 3, as if they fell in love and they got married ten years ago and therefore, the plaintiff's counsel, namely the 3rd respondent is related to the defendants and in the written statement also, allegations are made against them. In such view of the matter, it is prayed that the application is to be allowed.



4.The 3rd respondent has filed a counter affidavit, denying the claims of the alleged marriage with the 2nd respondent, who is none else than her own senior in the profession. She would also submit that the personal allegations are absolutely false and defamatory and there has also been exchange of notices and also a complaint has also been lodged against the counsel for the applicants before the Bar Council which is pending enquiry. She would however submit that only as a junior counsel, she has lent her name along with the 3rd respondent and in view of the fact that the 2nd defendant is the own sister of the 3rd respondent, the 3rd respondent has sought permission to withdraw her vakalat on moral grounds.

5.In view of the said stand of the 3rd respondent, there is no impediment for allowing the application as against the 3rd respondent since the 3rd respondent has voluntarily submitted before this Court, in writing that she may be permitted to withdraw her vakalat in view of the blood relationship with the 2nd defendant.

6.Insofar as the 2nd respondent is concerned, it appears from the allegations in the written statement that he has been associated with the parties to the suit and only on that ground, the present application has been



filed. One of the contentions is that the plaintiff is the brother's son of the 2nd respondent and therefore, he cannot appear in the case on behalf of his nephew and the same is unprofessional and unethical. There is no specific bar in the Bar Council of India Rules, prohibiting an Advocate to appear on behalf of his nephew.

7. Rule 6 of the Bar Council of India Rules which is referred to by the learned counsel for the applicants is only a restraint where the Advocate is related to Presiding Officer or the Judge and it does not relate to filing of vakalat for the litigant who happens to be a relative. In any event, it is for the 3rd respondent to exercise caution and take a judicious decision as to whether he intends to continue to appear for the plaintiff, in view of the fact that there is a likelihood of he being called upon to give evidence in the suit. In fact, when the same was suggested to the 3rd respondent by this Court, he has submitted that as and when trial commences and if any such necessity arises for him to enter the witness box, he would take an appropriate decision at that point of time and today, the applicants cannot seek the prayer as sought for in the application.

8. Recording the above stand of the 2nd respondent and the 3rd



respondent as discussed above, the application is partly allowed, permitting the 3rd respondent to withdraw her vakalat in the above suit and insofar as the 2nd respondent, the application is dismissed.

26.07.2024

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