REPORTABLE

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

SUO MOTU CONTEMPT PETITION (CRL.) NO.5 OF 2017

IN RE : MOHIT CHAUDHARY, ADVOCATE

J U D G M E N T

SANJAY KISHAN KAUL, J.

1. A Noble Profession. An Officer of the Court. An Advocate-on-Record having the privilege conferred in that behalf under the Supreme Court Rules, 2013. And a painful task of the Court to look into the conduct of such an advocate arrayed as a contemnor in the contempt proceedings.

2. On 07.04.2017 right in the morning at 10.30 a.m., we were confronted by Mr. Mohit Chaudhary, Advocate-on-Record, making the first mentioning in an extremely agitated and aggressive manner. He sought to contend that a great manipulation had

occurred in the Registry of this Court in order to favour the opposite party with the objective of “Bench Hunt”. He sought to produce before the Court a letter dated 07.04.2017, during mentioning, which was taken on record as Annexure ‘A’. In order to appreciate the said letter, we reproduce the same as under :

“To

The Hon’ble Chief Justice of India
Supreme Court, New Delhi

Reference : Contempt Petition (Civil) No.785 of 2015 & SLP (C) No.31520 of 2013.

Along with connected matters

Sub : Enquiry into the act of unnatural and hasty listing of voluminous matter with sole aim of bench hunting.

My lord,

An unfortunate, anti-institutional and manipulative trend set up by unscrupulous litigants with aim to bench hunt has led this complaint.

The above matters concern SRA project on a 33 Acre Land at South Mumbai at Colaba, conservative valuation of the dispute would be around Rs.5000 Crores. Despite interim orders passed by this Court senior officers of the department playing in hands of big corporate, indulge in act of deliberate contempt. All matters are pending.

Certain alarming detail of the events have cropped up last evening (around 18.30 hrs.), when in Supplementary List the voluminous matter (*approximately 12000 pages with*

reports/studies etc.) was shown to be listed today in a special bench (comprising of HMJ. Arun Misra and HMJ. S. Abdul Nazeer) despite the matter not being part-heard or otherwise marked to the said bench. Matter in usual course of business should have gone to a regular bench.

In deviation from normal rule of listing the matter before regular bench and indulging in constituting a special bench, at eleventh hour is non-conventional and mischievous act on part of Registry. This gets further worse, as vide 'Elimination List' dated 03.04.2017 issued at 18.28 hrs this matter was shown to be deleted from the advance cause list dated 07.04.2017. Thus, putting a matter on board an evening before is virtually giving no time to a party situated at Mumbai and counsel at Delhi to prepare.

An enquiry be made and practice direction be issued specially concerning all such voluminous and high stake matters where the parties are from distant places and need sufficient notice of listing.

In present matter, serious issues arise

- Why this matter is listed in unnatural haste and without constituting enough notice to parties/lawyers and that also before a special bench, deviating from the regular bench, in violation of judicial propriety and decorum?

- Could any lawyer/party or any of the Hon'ble Judge made a request, without notice to other parties, for putting the matter on board despite its' deletion?

In set of disturbing facts given above, it is requested that subject matter be placed before regular bench or before the Court of Hon'ble Chief Justice and stringent practice directions be issued, as not only in present case, but registry in past has also indulged in such malpractice in past (*reference is made to CIDCO and H.D. Sudhakar Vs. Metropolis Hotel matters).*

Submitted By :
Sd/-
Mohit Chaudhary
Advocate-on-Record for the
Petitioner-in-person

Dated: 04.07.2017
New Delhi

Sd/-
PETITIONER"
(Emphasis supplied)

3. The allegation thus is clear and unequivocal – the Registry had colluded with the opposite litigant to hastily list the matter with the aim of bench hunting. It was categorized as "an unfortunate and anti-institutional and manipulative trend" which seems to indicate that the matter was stated to have suddenly appeared in the evening list prior to the date as the supplementary matter before the special bench, despite the matter not being 'part heard' or otherwise marked to the bench. This was alleged to be in violation of the normal rule of listing before a regular bench and indulging in constituting a Special Bench at the eleventh hour as a non-conventional and mischievous act on the part of the Registry. This was so despite the fact that the matter had been earlier deleted from the Advance Cause list of 07.04.2017.

4. We may note that the contemnor is an Advocate-on-Record practicing in that capacity since the year 2009 – not a novice in the

field. He has been representing prestigious institutions, State Government and Authorities and is obviously quite familiar with the practices of this Court. He cannot be said to be oblivious to the fact that no bench is constituted by the Registry, but by the Chief Justice of this Court. Thus, in an indirect manner, an imputation was impliedly made even against the Chief Justice though in the garb of a virulent attack on the Registry.

5. The prayer made in the letter in view of the "disturbing facts" was, to place the matter before a regular bench, and for issuance of "stringent practice directions" so as to prevent the Registry in indulging in such malpractices, as "the registry in past has also indulged in such malpractices".

6. To say the least, we were taken aback, not only by the contents of the letter, but by the manner of presentation in the Court. Our exploration showed that the averments in the letter were palpably false as on 31.3.2017, specific directions had been issued for the matter to be listed on 7.4.2017, "to be heard finally." Thus, if inadvertently the matter was deleted from the Advance List but had re-appeared in the list, nobody could have been taken by surprise in view of the last order. It was not also a case where an Advocate-on-Record was expressing

some difficulty in seeking to make a representation of the case on account of being unaware of the listing, in which case, a request would be made before the concerned bench for some accommodation. The intent was clear i.e. the bench before which the case was listed could not hear the matter for reasons best known to the petitioner and the Advocate-on-Record. The shoe was thus on the other foot i.e. an endeavor of bench hunting by the litigant mentioning before us and the Advocate-on-Record lending his shoulder to that endeavor.

7. The order produced in the Court dated 31.3.2017 incidentally was passed by the same bench before which the matter was listed on 7.4.2017, and thus, there was no change even in the bench, nor had the case been placed before a special bench. It was listed before the regular bench. It was not listed before any special bench. The letter of the contemnor was also accompanied by certain articles relating to "bench hunting" leaving nothing in doubt about the direction of the attack of the contemnor.

8. We did not consider it a matter to let go. The listing had been based on a judicial direction and had not been determined at the hands of the Registry of the Court. The allegations sought to be made against the Registry with insinuations directed even against the Judges, led to

our *prima facie* satisfaction, that the Advocate-on-Record had committed contempt in the face of the Court, by making such insinuations and allegations, and thus notice of contempt was issued then and there, with liberty granted to Mr. Mohit Chaudhary to file an affidavit, in this behalf. The matter was posted for 10th April, 2017.

9. The contemnor, faced with the proceedings of contempt on the face of the Court, sought to back track, by seeking to file an affidavit on the same date before the Court. In the affidavit verified by the contemnor as "true and correct to my knowledge and belief", it was affirmed, that while representing the interest of the client he had made a mention before the Court which, according to him, was to the best of his judgment, the only course available. We reproduce the affidavit as under:-

> "To
>
> The Hon'ble Chief Justice of India,
> And his companion judges
> Supreme Court, New Delhi
>
> AFFIDAVIT
>
> I Mohit Chaudhary S/o Late Sh R.K. Chaudhary Resident of B-180, East of Kailash, New Delhi, aged 40 years, do hereby solemnly affirm as under:

1. At the outset, I say that I have highest regards for the judicial system of India and for this Hon'ble Court. I am an Advocate on Record of this Court. Whatever I am today (in terms of my identity) is because of being an officer of the Court, so I can never even dare or attempt to defy the dignity and majesty of Court, even in my wildest dream.

2. However, being an officer of the Court and representing the interest of my client (without anything being personal in it), I made a mentioning before this Hon'ble Court, which according to my judgment was the only course available. In order to request this Court to issue practice directions (for listing the matter where enough notice could have been given to parties), I also handed over grievance to the Hon'ble Court. The copy of the said grievance is only with me and with the Hon'ble Court.

3. However, it appears that the approach of mine was not proper and thus in order to put my point across, I feel to place on record that :

A. I profusely apologise towards the said act of mine which gave an impression to this Hon'ble Court that I have indulged in an act of contempt. I even tendered my apology in the open Court, the moment Hon'ble Court took a prima facie view of issuing contempt notice to me.

B. In this Court I have worked for Union of India, PSUs and variety of clients and even I was being appointed as Additional Advocate General for the State of J & K, nowhere there is a complaint of mine.

4. Towards the end, I again wish to submit my unconditional apology for my unintentional act. Your lordship may take a lenient view in the matter and pardon me.

Deponent

VERIFICATION

I say that the above contents of my affidavit are true and correct to my knowledge and belief.

Verified on 07.04.2017 at New Delhi.

Deponent"

10. The position adopted in the affidavit, could hardly be categorized as an unconditional apology, as it was a justification of what the contemnor had done in past and what was stated was "the approach of mine was not proper". This position expressed in the affidavit could hardly have been accepted as a justification of the actions of the contemnor. Liberty was sought and granted, to file a further explanation. The second affidavit filed by the contemnor, was affirmed on 10.4.2017. The contents of the said affidavit are as under:

"AFFIDAVIT OF SINCERE, UNCONDITIONAL APOLOGY AND UNCONDITIONAL WITHDRAWAL OF THE SUBMISSIONS & LETTER DATED 07.04.2017.

I Mohit Chaudhary S/o Late Sh. R.K.Chaudhary Resident of B-180, East of Kailash, New Delhi, aged 40 years, do hereby solemnly affirm as under:

1. I with folded hands unconditionally tender my apology to this Hon'ble Court and withdraw each and every word spoken or written in the letter dated 7th April, 2017 submitted before this Hon'ble Court at the time of mentioning on 7.4.2017.

2. I reiterate that there was no intent on my part to in any manner or anyways to bring any disrespect to the dignity of this Hon'ble Court. I strongly believe that I would have no dignity in the absence of dignity of this Hon'ble Court.

3. I have always held this Hon'ble Court in the highest esteem and not done anything which might tend or cause to be seen as bringing any disrespect to this great institution dispensing justice to one and all.

4. I assure this Hon'ble Court that I shall not do or cause to do or tend to do anything ever as a result of impromptu reaction to such situations. I state that the few years that I have spent at the Bar I have made all endeavours to uphold the rule and majesty of law. The dignity, the respect of this Hon'ble Court or for that matter every Court established by law is extremely dear to me and pray my apology be accepted.

5. Not abiding to the discipline of this Hon'ble Court has taught me a lesson that merely listing of a matter and that too under the directions of the Hon'ble Court can never be manipulated as stated by me and the direction of this Hon'ble Court was not only binding on all concerned but equally on the Registry of this Hon'ble Court

6. The lesson learnt by my mistakes and errors on 7th April, 2017 would help me in future to take care before forming any opinion and acting on the same. The magnanimity of this Hon'ble Court is boundless and I pray that Your Lordships would show the said magnanimity on the young officer of this Hon'ble Court.

7. I beseech the indulgence of this Hon'ble Court to very kindly accept my unconditional apology.

8. To err is human and the error committed by me on 7th April, 2017 is one such human error. I once again withdraw each word spoken and written on 7.4.2017 and tender my unconditional apology to this Hon'ble Court.

DEPONENT

VERIFICATION

I the above named Deponent do hereby verify that the contents of the above affidavit are true to my knowledge.

Verified on this the 10th day of April, 2017 at New Delhi

DEPONENT"

11. The contemnor now sought to place an unconditional apology, admitting not to be abiding by the discipline of the Court. He

acknowledged that listing of a matter, under the direction of the Court, could never be manipulated as stated by him! If we may say so, it does not require much imagination and knowledge to know of this fact. The contemnor beseeched the indulgence of the Court and claimed to have erred, seeking to withdraw each word spoken and written on 7.4.2017, and tendered an unqualified apology.

12. On 10.4.2017, the affidavit filed in Court was taken on record, and the matter was posted for further consideration on 17.4.2017, with the direction to also place the "SLP file" before the Court. On 17.4.2017, a battery of counsel was present to represent the contemnor, led by Mr.K.K.Venugopal, learned senior counsel. It was his contention that the contemnor had thrown himself at the mercy of the court, and there was little else he could do. He submitted that the contemnor had erred grievously, but what he had done, could not be recalled. Thus he could only plead for the indulgence of mercy. The order sheet also records the presence of the learned Attorney General, President of the Supreme Court Bar Association, and the President of the Advocate-on-Record Association, amongst others.

13. We are faced with the question, as to what should be the rightful thing to do, in such a situation. Is the second apology, which is

unconditional, enough to absolve the contemnor of all that has been done by him? Whether some consequences must follow on the contemnor for his conduct, even if there is ultimately an unconditional apology tendered by him?

14. In determining this issue, in the conspectus of the aforesaid affidavit, one more important fact has to be taken into account. The records of the case show, that the original writ petition was filed through one Puja Sharma, Advocate-on-Record, but the contemnor appeared on the first date of hearing on 01.10.2013. The "vakalatnama" (power of attorney) then changed to one Mr. Gautam Narayan on 29.01.2014 after obtaining No Objection by Puja Sharma, but soon thereafter, the contemnor filed the "vakalatnama" on 11.11.2014 with No Objection from Mr. Gautam Narayan. However, on 16.02.2015 Mr. Nirnimesh Dube entered as an Advocate-on-Record, in place of the respondent contemnor. Mr. Nirnimesh Dube was succeeded by Mr. Jinendra Jain on 22.01.2016, and continued to be the Advocate-on-Record upto 04.04.2017, when the respondent re-enters the case by filing a fresh "vakalatnama". Thus, it is quite obvious that the petitioner engaged the contemnor who came into the picture on the anvil of mentioning after having remained away from the

scene for all this period of time. The prior Advocate-on-Record remained so on 31.03.2017 when the matter was directed to be listed for final disposal on 07.04.2017. Even on 07.04.2017 the presence of Mr. Jinendra Jain, Advocate is recorded apart from Mr. Mohit Chaudhary when the matter was taken up by the Bench and the petitions were dismissed.

15. It is thus quite obvious to us that the scenario was that the existing Advocate-on-Record refused to oblige the litigant petitioner for making the unreasonable mentioning before the Court, as was endeavoured by the contemnor, seeking to shift the matter out of an existing Bench. It is the contemnor who utilized the opportunity to re-enter the scene, with the object of assisting the petitioner, in the endeavour of such bench hunting, under the garb of allegations and insinuations, made against the Registry, and for that matter, even the court. The contemnor thus took a conscious decision to be a pawn in the hands of the litigant, to scandalize the Court and the Registry of the Court, with the sole objective of achieving a bench shifting. It was clearly a “commercial decision” to sub-serve the interest of his client, even though, it would amount to false allegations and be unbecoming of an advocate.

16. We consider it appropriate to review some of the judicial precedents and texts in respect of the conduct of an advocate. We recognize the duty of an advocate to put his best case for the litigant before the Court. This, however, does not absolve him of the responsibility as an officer of the Court. It is a dual responsibility. The right of an Advocate-on-Record in the Supreme Court, is not an automatic right coming from the enrollment at the Bar. Something more has to be done. The rigors of an examination have to be gone through, which tests the advocate, not only on his legal ability of drafting and knowledge of law, but on ethical practices. It is only after going through the rigorous exercise that an advocate is enlisted as an Advocate-on-Record, giving him the right to act and file pleadings before this Court, in accordance with the Supreme Court Rules, 2013.

17. A perusal of the relevant Rule contained in Order IV, Rule 5 requires, *inter alia*, even training for one year with an Advocate-on-Record, who has been approved by the Court, prior to the appearance in the test, so that the prospective Advocate-on-Record is well grounded in the various professional aspects. The requirements regarding the Advocate-on-Record examination, held under the general policy of the Committee of Judges appointed by the Chief

Justice, requires testing in the practice and procedure of Supreme Court, drafting, advocacy and professional ethics and leading cases. The contemnor has been an Advocate-on-Record for 8 years.

18. To borrow the words of P.B.Sawant, J. in ***Vinay Chandra Mishra, In re***,[1]

> "Brazenness is not outspokenness and arrogance is not fearlessness. Use of intemperate language is not assertion of right nor is a threat an argument. Humility is not servility and Courtesy and politeness are not lack of dignity. Self-restraint and respectful attitude towards the Court, presentation of correct facts and law with a balanced mind and without overstatement, suppression, distortion or embellishment are requisites of good advocacy. A lawyer has to be a gentleman first. His most valuable asset is the respect and goodwill he enjoys among his colleagues and in the Court."

19. That the practice of law is not akin to any other business or profession as it involves a dual duty – nay a primary duty to the Court and then a duty to the litigant with the privilege to address the Court for the client is best enunciated in the words of Justice Mookerjee in ***Emperor vs. Rajanikantha Bose***[2] -

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[1] (1995) 2 SCC 584

[2] 49 CAL. 732 ; 71 Ind Cas 81

> "The Practice of Law is not a business open to all who wish to engage in it. It is a personal right or privilege… It is in the nature of a Franchise from the State – That you are a member of the legal profession is your privilege; That you can represent your client is your privilege; that you can in that capacity claim audience in Court is your privilege. Yours is an exalted profession in which your privilege is your duty and your duty is your privilege. They both coincide."

20. Warvelle's Legal Ethics, 2nd Edition at page 182 sets out the obligation of a lawyer as:

> "A lawyer is under obligation to do nothing that shall detract from the dignity of the court, of which he is himself a sworn officer and assistant. He should at all times pay deferential respect to the Judge, and scrupulously observe the decorum of the courtroom".

21. The contempt jurisdiction is not only to protect the reputation of the concerned Judge so that he can administer Justice fearlessly and fairly, but also to protect "the fair name of the judiciary". The protection in a manner of speaking, extends even to the Registry in the performance of its task and false and unfair allegations which seek to impede the working of the Registry and thus the

administration of Justice, made with oblique motives cannot be tolerated. In such a situation in order to uphold the honor and dignity of the institution, the Court has to perform the painful duties which we are faced with in the present proceedings. Not to do so in the words of P.B.Sawant, J. in ***Sanjiv Dutta, Dy. Secy., Ministry of Information & Broadcasting, In re,***[3] would –

> "The present trend unless checked is likely to lead to a stage when the system will be found wrecked from within before it is wrecked from outside. It is for the members of the profession to introspect and take the corrective steps in time and also spare the Courts the unpleasant duty. We say no more."

22. Now turning to the "Standards of Professional Conduct and Etiquette" of the Bar Council of India Rules contained in Section I of Chapter II, Part VI, the duties of an advocate towards the Court have been specified. We extract the 4th duty set out as under:

> "An advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the Court, opposing counsel or parties which the advocate himself ought not to do. An advocate

[3] (1995) 3 SCC 619

> shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouthpiece of the client, and shall exercise his own judgment in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court."

23. In the aforesaid context the aforesaid principle in different words was set out by Justice Crampton in ***R. vs. O'Connell***[4] as under:

> "The advocate is a representative but not a delegate. He gives to his client the benefit of his learning, his talents and his judgment; but all through he never forgets what he owes to himself and to others. He will not knowingly misstate the law, he will not willfully misstate the facts, though it be to gain the case for his client. He will ever bear in mind that if he be an advocate of an individual and retained and remunerated often inadequately, for valuable services, yet he has a prior and perpetual retainer on behalf of truth and justice and there is no Crown or other license which in any case or for any party or purpose can discharge him from that primary and paramount retainer."

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[4] 7 Irish Law Reports 313

24. The fundamentals of the profession thus require an advocate not to be immersed in a blind quest of relief for his client. The dignity of the institution cannot be violated in this quest as "law is no trade, briefs no merchandise" as per Krishna Iyer, J in ***Bar Council of Maharashtra vs. M.V.Dabholkar***[5]***.***

25. It is also pertinent to note at this point, the illuminating words of Vivian Bose, J. in ***'G' a Senior Advocate of the Supreme Court, In re***[6]***,*** who elucidated:

> "To use the language of the Army, an Advocate of this Court is expected at all times to comport himself in a manner befitting his status as an "officer and a gentleman".

26. It is as far back as in 1925 that an Article titled ***'The Lawyer as an Officer of the Court'***[7] published in the Virginia Law Review, lucidly set down what is expected from the lawyer which is best set out in its own words:

> "The duties of the lawyer to the Court spring directly from the relation that he sustains to the Court as an

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5 (1976) 2 SCC 291

6 AIR 1954 SC 557

7 *Virginia Law Review*, Vol.11, No.4 (Feb. 1925) pp. 263-277

officer in the administration of justice. The law is not a mere private calling, but is a profession which has the distinction of being an integral part of the State's judicial system. As an officer of the Court the lawyer is, therefore, bound to uphold the dignity and integrity of the Court; to exercise at all times respect for the Court in both words and actions; to present all matters relating to his client's case openly, being careful to avoid any attempt to exert private influence upon either the judge or the jury; and to be frank and candid in all dealings with the Court, "using no deceit, imposition or evasion," as by misreciting witnesses or misquoting precedents. "It must always be understood," says Mr.Christian Doerfler, in an address before the Milwaukee County Bar Association, in December, 1911, "that the profession of law is instituted among men for the purpose of aiding the administration of justice. A proper administration of justice does not mean that a lawyer should succeed in winning a lawsuit. It means that he should properly being to the attention of the Court everything by way of fact and law that is available and legitimate for the purpose of properly presenting his client's case.

His duty as far as his client is concerned is simply to legitimately present his side of the case. His duty as far as the public is concerned and as far as he

is an officer of the Court is to aid and assist in the administration of justice."

In this connection, the timely words of Mr. Warvelle may also well be remembered:

"But the lawyer is not alone a gentleman; he is a sworn minister of justice. His office imposes high moral duties and grave responsibilities, and he is held to a strict fulfillment of all that these matters imply. Interests of vast magnitude are entrusted to him; confidence is imposed in him; life, liberty and property are committed to his care. He must be equal to the responsibilities which they create, and if he betrays his trust, neglects his duties, practices deceit, or panders to vice, then the most severe penalty should be inflicted and his name stricken from the roll."

That the lawyer owes a high duty to his profession and to his fellow members of the Bar is an obvious truth. His profession should be his pride, and to preserve its honor pure and unsullied should be among his chief concerns. "Nothing should be higher in the estimation of the advocate," declares Mr. Alexander H. Robbins, "next after those sacred relations of home and country than his profession. She should be to him the 'fairest of ten thousand' among the institutions of the earth. He must stand for

her in all places and resent any attack on her honor – as he would if the same attack were to be made against his own fair name and reputation. He should enthrone her in the sacred places of his heart, and to her he should offer the incense of constant devotion. For she is a jealous mistress."

Again, it is to be borne in mind that the judges are selected from the ranks of lawyers. The purity of the Bench depends upon the purity of the Bar.

"The very fact, then, that one of the co-ordinate departments of the government is administered by men selected only from one profession gives to that profession a certain pre-eminence which calls for a high standard of morals as well as intellectual attainments. The integrity of the judiciary is the safeguard of the nation, but the character of the judges is practically but the character of the lawyers. Like begets like. A degraded Bar will inevitably produce a degraded Bench, and just as certainly may we expect to find the highest excellence in a judiciary drawn from the ranks of an enlightened, learned and moral Bar."

27. He ends his Article in the following words:

"No client, corporate or individual, however powerful, nor any cause civil or political, however important, is entitled to receive, nor should any lawyer

> render, any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But, above all, a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen."

28. On examination of the legal principles an important issue emerges: what should be the end of what the contemnor had started but has culminated in an impassioned plea of

Mr. K.K.Venugopal, learned senior advocate supported by the representatives of the Bar present in Court, marking their appearance for the contemnor. We are inclined to give due consideration to such a plea, but are unable to persuade ourselves to let the contemnor go scot-free, without any consequences. We are thus not inclined to proceed further in the contempt jurisdiction except to caution the contemnor that this should be the first and the last time of such a misadventure. But the matter cannot rest only at that.

29. It was not an innocent act, an innocuous endeavor but a well thought out decision to tread an unfortunate path which the existing Advocate-on-Record was unwilling to do. The objective was only to assist the client by somehow seeking shifting of the Bench. The allegations made against the Registry were false and there were innuendoes against the Court. The endeavor failed. Every action has to have an outcome. The contemnor thus must face some consequences of his conduct.

30. We are of the view that the privilege of being an Advocate-on-Record under the Rules has clearly been abused by

the contemnor. The conduct was not becoming of an advocate much less an advocate-on-record in the Supreme Court.

31. In this context, we would like to refer to Rule 10 of Order IV of the said Rules which reads as under:

> "10. When, on the complaint of any person or otherwise, the Court is of the opinion that an advocate-on-record has been guilty of misconduct or of conduct unbecoming of an advocate-on-record, the Court may make an order removing his name from the register of advocates on record either permanently or for such period as the Court may think fit and the Registrar shall thereupon report the said fact to the Bar Council of India and to State Bar Council concerned:
>
> Provided that the Court shall, before making such order, issue to such advocate-on-record a summons returnable before the Court or before a Special Bench to be constituted by the Chief Justice, requiring the advocate-on-record to show cause against the matters alleged in the summons, and the summons shall, if practicable, be served personally upon him with copies of any affidavit or statement before the Court at the time of the issue of the summons.
>
> Explanation – For the purpose of these rules, misconduct or conduct unbecoming of an advocate-on-record shall include –
>
> (a) Mere name lending by an advocate-on-record without any further participation in the proceedings of the case;
>
> (b) Absence of the advocate-on-record from the Court without any justifiable cause when the case is taken up for hearing; and

(c) Failure to submit appearance slip duly signed by the advocate-on-record of actual appearances in the Court."

The aforesaid Rule makes it clear, that whether on the complaint of any person or otherwise, in case of misconduct or a conduct unbecoming of an advocate-on-record, the Court may make an order removing his name from the register of Advocate-on-Record permanently, or for a specified period. We are not referring to the right to practice as an advocate, and the name entered on the rolls of any State Bar Council, which is a necessary requirement, before a person takes the examination of Advocate-on-Record. The present case is clearly one where this Court is of the opinion that the conduct of the contemnor is unbecoming of an Advocate-on-Record. The pre-requisites of the proviso are met, by the reason of the Bench being constituted itself by the Chief Justice, and the contemnor being aware of the far more serious consequences, which could have flowed to him. The learned senior counsel representing the petitioner has thrown him at the mercy of the Court. We have

substantively accepted the request but lesser consequences have been imposed on the contemnor.

32. We are thus of the view that the appropriate course of action would be that the contemnor is not permitted to practice as an Advocate-on-Record, for a period of one month from the date of the order. A painful task had to be performed and is performed.

33. We hope that both for the petitioner and other advocates who may consider the interest of the client paramount even to breach the ethical practice of the court, this would be a caution. We say no more.

.....CJI.
(Jagdish Singh Khehar)

.....J.
(Dr. D.Y. Chandrachud)

.....J.
(Sanjay Kishan Kaul)

New Delhi;
August 17, 2017.