

(1944) 10 MAD CK 0015
In the Madras High Court

A.V. Sundaramurthy Chettiar	Vs	APPELLANT
S. Muthiah Mudaliar and Another		RESPONDENT

Date of Decision : 30-10-1944

Acts Referred:

Citation : AIR 1945 Mad 190 : (1945) 58 LW 34 : (1945) 1 MLJ 56

Hon'ble Judges : Wadsworth, J

Bench : Division Bench

Judgement

Wadsworth, J.—This is an application by the sixth respondent in A.S. No. 160 of 1942 praying for the cancellation of the vakalat given to

the advocates representing him in that appeal. From the statement of accounts between the client and the advocates which has been placed before

us and is apparently admitted on both sides to be correct, it appears that the advocates were engaged to conduct the case of the petitioner on a fee

of Rs. 900. The petitioner has paid in all Rs. 718, of which Rs. 450 has been credited to the fee, and all the rest, except a balance of Rs. 21-9-6,

has gone in discharge of necessary expenses. One week after the appeal was posted in the rough list, the petitioner, who had been promising a,

remittance for the purchase of printed papers, and the balance of fees, announced that he wished to change his advocate. The advocates

concerned had not received the balance of their fee nor the amount necessary for the purchase of the printed papers, the total cost of which, we

are told, is Rs. 473, though what was the amount to be paid by this particular respondent is not yet ascertained. In this state of affairs the

advocates: declined to agree to a change of vakalat until they had been paid the balance of the fee.

2. The contention of the petitioner is that the amounts which he has paid is sufficient remuneration for the work already done, that he has no means

to pay the balance and that he has been offered financial help on condition of his engaging a different advocate--we do not know whom. It seems

to us clear from the rules and from the decisions that in the absence of misconduct on the part of the advocate the client is not entitled to the

sanction of the Court for a change of the advocate without making a satisfactory arrangement to pay the advocate, who has had charge of the case

hitherto. The cases quoted before us on the point are Ramaswami Chetti v. Subbu Chetti ILR (1899) Mad. 134 Pankaj Kumar Ghosh v. Sudhetr

Kumar Shikdar ILR (1933) Cal. 1273 and Babui Radhika Debi v. Ramasray Prasad Chowdhury ILR (1930) Pat. 865. In the present case, there

is no shadow of an allegation against the advocate, who has had charge of the case hitherto. The client proposes to abandon him when the case is

ready for hearing. Although he pleads poverty, he is apparently able to get sufficient means to instruct another advocate and to purchase the

necessary papers.

3. In these circumstances it seems to us proper that the advocates on the record should be paid their full fee before the change of vakalat is

sanctioned and we decline to sanction the change until satisfactory arrangements have been made to that end.