

Loquacious advocates lose.

By Edrich Miranda

In brief what transpired on Tuesday, 17 August, 2021. Been to the house of two advocates for legal drafting. The first episode, she carries one of the seven bulky files, of her client and dumps it onto me, with instructions to prepare a notice, addressed to the Mumbai Municipal Corporation, for failure to demolish an illegal structure, in the compound of a registered CHS Ltd, who have title to the land, on which the society is located. Civil suits have already traversed through the City Civil court, the High Court, some ten years ago, and finally disposed off, without grant of reliefs prayed for by the encroacher, who was plaintiff at the trial court, final disposal of the suit has also crossed five years, prepared a best possible draft, all acts, sections, sub-sections, articles, clauses, sub-clauses, rules, regulations, circulars, notifications, ordinances, case laws etc; that are attracted to the subject in dispute, proper legal language, proper spellings, meanings, punctuations, tense, syntax and general grammar; then she ask me which is that circular you have mentioned, "From the office of the Municipal Commissioner to the office of the Assistant Municipal commissioner?" What is your difficulty, I asked? Why do you insist on knowing which circular? Her reply was just what I was guessing. She wanted to inform the secretary of the society, who had posed that query to her (Advocate) after she (the secretary) of the CHS Ltd had perused the final draft notice, before being printed on the letter head of the advocate. This sordid episode arose because, the advocate wanted to satisfy the client. This conduct of permitting clients to meddle with points of law is instrumental in soiling the image of advocates. Clients are supposed to furnish all true relevant and material facts; you as an advocate are required to decide as to which law becomes applicable and how it is to be applied.

When a patient visits a doctor, for one's illness and is prescribed penicillin, if the patient should ask, what is Penicillin? Which would evoke a reply, Penicillin is an anti bacterial drug; and one can imagine the following question. What is Bacteria?

Which would evoke a reply, Bacteria is a single cell microbe, that grows under certain parameter, then a further question is posed and it goes on and on. The professions of Engineering, Medicine, Advocacy etc are specialized fields, and one cannot and need not elaborate its practice and procedure to a customer, patient or client. The quicker professionals learn this the better for them and the profession as a whole.

Coming to the second incident, while drafting three notices at the office of an advocate, a client walks in which is the forth work for the day. To my dismay my learned friend lost the client as well as one of the earlier clients, because of excessive dialog between advocate and client on points of law, procedure and practice. If an advocate goes on giving detailed explanation, such as we need draft, type attaché and mark exhibits, number pages, affirm, lodge, argue any interlocutory prayer, take copy of order, execute order through office of bailiff opponent will appear on next date and file W.S. or affidavit in reply, every para of our plaint is to be admitted or denied, O.P. can add something more which wasn't in the plaint, production and inspection of documents, advertisement in news papers, affidavit in support of publication etc; if an advocate explains that much he/she may frighten the client, or confuse the client, or educate the client to an extent that a client may not need an advocate at all. I therefore urge my professional colleagues, to refrain from indulging in such churlish practice.

Now here I'd like to point out, this advocate made the mistake and lost two of his clients due to his back ground, since he earlier was a medical sales representative, which job entails, discussing and convincing doctors about the efficacy of medicines, and therefore he is habitual to speaking excessively, by virtue of his earlier profession, therefore people who have come into this profession from professions like teaching, marketing etc; who essentially have to orally interact with the public, have an inherent defect.