

*Mahatma Gandhi's appearance in Small Causes Court, Mumbai*

*Shri S.B. Savale, Chief Judge,  
Court of Small Causes, Mumbai*



Mahatma Gandhi, we know as Father of our Nation and also as a lawyer. But many do not know about his professional career and places at which he practiced as a lawyer and the Courts where he appeared. In his Autobiography, he has mentioned about it in details but readers sometimes skip over this part as they are interested in knowing Mahatma Gandhi more after his entry in the politics of India during British Empire.

I had also committed the same mistake while reading his autobiography. However, when I was posted as Chief Judge of Small Causes Court in Mumbai. I was made known that it is a Court where Mahatma Gandhi has left his foot prints. I felt much obliged by the Hon'ble High Court in posting me there. I took out Mahatma

Gandhi's autobiography from my cupboard and zealously went through the portions of it where there is reference of Court of Small Causes Court. In schedule annexed with this article, I have reproduced some of the notes of Mahatma Gandhi of his experience as a lawyer in Mumbai. I am sure that you will get excited while reading them.

Besides this historical feature of Small Causes Court at Mumbai, history of its origin is also interesting. This was the oldest Court in British Empire. It was established by Charter of George the second on 08.01.1753. Such Courts were established only in three presidency towns of Calcutta, Madras and Mumbai and they were initially known as "Courts of Requests". Later on in 1882 when the Presidency Small Causes Courts Act was brought into force, these Courts were named as Small Causes Courts. The Judges of Courts of Small Causes were being appointed by Governor in Council. Small Causes Courts were to follow practice and procedure subject to approval of respective Supreme Courts in presidency towns. Judge of Supreme Court was to act as Judge of Small Causes Court. Jurisdiction of Supreme Court was concurrent with Courts of Small Causes. Thus these Courts were considered as Courts of special significance. I, therefore humbly feel that nomenclature used for them is a misnomer.

Order-51 of Civil Procedure Code exempts application of the orders in schedule-1 to it, except few orders therein to any suit or proceeding in any Court of Small Causes established in the said towns and thus the Courts of Small Causes are expected to advance justice without adhering much to the tricky procedural laws and complications. Rules framed by the Hon. High Court have made some orders and

rules in C.P.C applicable. As such trials are conducted in the court of small causes Mumbai by following rules framed under the Presidency small cause courts Act 1882. The object obviously is to advance justice speedily.

These Courts established under Presidency Small Causes Courts Act in metro cities like Madras, Calcutta and Mumbai have been vested with the powers to deal with the cases under the Rent Acts and the disputes between landlord and tenant and licensor and licensee governed by the provisions in The Transfer of Property Act, 1882. The prices of the properties in these metro cities have reached sky level, therefore, litigations in these Courts have been viewed as prestigious litigations involving high stakes. Since the Court of Small Causes, Mumbai is in the vicinity of the High Court, fair competent class of Advocates appear in this Court and the cases are conducted by them scientifically. The Judges posted here thus get an opportunity of learning various niceties in the procedural laws and the property laws.

Small Causes Court at Mumbai has another special feature. The appeals are heard here by a Bench consisting of two Judges and the Chief Judge has power to constitute such benches. As per the Bombay High Court Judicial Officers Recruitment Rules, 1956, the Judge to be appointed in the Court of Small Causes shall be of the cadre of Senior Civil Judge. Chief Judge and the Additional Chief Judges are from the cadre of District Judges. Experienced Judges are thus appointed to administer the business in this Court so as to extend good assistance to the Judicial System.

This Court is housed in heritage edifice, construction of which is completed in 1918. The Court Hall of the Chief Judge is quite spacious admeasuring about 4000 square feet. The construction is so classic that the Judges feel quite comfortable even in summer season.

It is really a matter of pride for we the Judges posted in this Court of Small Causes, Mumbai to work and learn here.

Gandhiji's notes:

### **The First Case**

While in Bombay, I began, on the one hand, my study of Indian law and, on the other, my experiments in dietetics in which Virchand Gandhi, a friend, joined me. My brother, for his part, was trying his best to get me briefs.

The study of Indian law was a tedious business. The Civil Procedure Code I could in no way get on with. Not so however, with the Evidence Act. Virchand Gandhi was reading for the solicitor's examination and would tell me all sorts of stories about barristers and vakils. 'Sir Pherozechah's ability,' he would say, 'lies in his profound knowledge of law. He has the Evidence Act by heart and knows all the cases on the thirty-second section. Badruddin Tyabji's wonderful power of argument inspires the judges with awe.'

The stories of stalwarts such as these would unnerve me.

'It is not unusual', he would add, 'for a barrister to vegetate for five or seven years. That's why I have signed the articles for solicitorship. You should count yourself lucky if you can paddle your own canoe in three years' time.'

Expenses were mounting up every month. To have a barrister's board outside the house, whilst still preparing for the barrister's profession inside, was a thing to which I could not reconcile myself. Hence I could not give undivided attention to my studies. I developed some liking for the Evidence Act and read Mayne's *Hindu Law* with deep interest, but I had not the courage to conduct a case. I was helpless beyond words, even as the bride come fresh to her father-in-law's house!

About this time, I took up the case of one Mamibai. It was a 'small cause.' 'You will have to pay some

commission to the tout,' I was told. I emphatically declined.

---

'But even that great criminal lawyer Mr. So-and-So, who makes three to four thousand a month, pays commission!'

---

'I do not need to emulate him,' I rejoined. 'I should be content with Rs. 300 a month. Father did not get more.'

---

'But those days are gone. Expenses in Bombay have gone up frightfully. You must be business-like.'

---

I was adamant. I gave no commission, but got Mamibai's case all the same. It was an easy case. I charged Rs. 30 for my fees. The case was not likely to last longer than a day.....

---

This was my *début* in the Small Causes Court. I appeared for the defendant and had thus to cross-examine the plaintiff's witnesses. I stood up, but my heart sank into my boots. My head was reeling and I felt as though the whole court was doing likewise. I could think of no question to ask. The judge must have laughed, and the vakils no doubt enjoyed the spectacle. But I was past seeing anything. I sat down and told the agent that I could not conduct the case, that he had better engage Patel and have the fee back from me. Mr. Patel was duly engaged for Rs. 51. To him, of course, the case was child's play.

---

I hastened from the Court, not knowing whether my client won or lost her case, but I was ashamed of myself, and decided not to take up any more cases until I had courage enough to conduct them. Indeed I did not go to Court again until I went to South Africa. There was no virtue in my decision. I had simply made a virtue of necessity. There would be no one so foolish as to entrust his case to me, only to lose it!

---

But there *was* another case in store for me at Bombay. It was a memorial to be drafted. A poor Mussalman's land was confiscated in Porbandar. He approached me as the worthy son of a worthy father. His case appeared to be weak, but I consented to draft a memorial for him, the cost of printing to be borne by him. I drafted it and read it out to friends. They approved of it, and that to some extent made me feel confident that I was qualified enough to draft a memorial, as indeed I really was.

---

My business could flourish if I drafted memorials without any fees. But that would be no grist to the mill. So I thought I might take up a teacher's job. My knowledge of English was good enough,

and I should have loved to teach English to Matriculation boys in some school. In this way I could have met part at least of the expenses. I came across an advertisement in the papers: 'Wanted, an English teacher to teach one hour daily. Salary Rs 75.' The advertisement was from a famous high school. I applied for the post and was called for an interview. I went there in high spirits, but when the principal found that I was not a graduate, he regretfully refused me.

---

'But I have passed the London Matriculation with Latin as my second language.'

---

'True but we want a graduate.'

---

There was no help for it. I wrung my hands in despair. My brother also felt much worried. We both came to the conclusion that it was no use spending more time in Bombay. I should settle in Rajkot where my brother, himself a petty pleader, could give me some work in the shape of drafting applications and memorials. And then as there was already a household at Rajkot, the breaking up of the one at Bombay meant a considerable saving. I liked the suggestion. My little establishment was thus closed after a stay of six months in Bombay.

---

I used to attend High Court daily whilst in Bombay, but I cannot say that I learnt anything there. I had not sufficient knowledge to learn much. Often I could not follow the cases and dozed off. There were others also who kept me company in this, and thus lightened my load of shame. After a time, I even lost the sense of shame, as I learnt to think that it was fashionable to doze in the High Court.

---

If the present generation has also its briefless barristers like me in Bombay, I would commend them a little practical precept about living. Although I lived in Girgaum I hardly ever took a carriage or a tram-car. I had made it a rule to walk to the High Court. It took me quite forty-five minutes, and of course I invariably returned home on foot. I had inured myself to the heat of the sun. This walk to and from the Court saved a fair amount of money, and when many of my friends in Bombay used to fall ill, I do not remember having once had an illness. Even when I began to earn money, I kept up the practice of walking to and from the office, and I am still reaping the benefits of that practice.