

**ADDRESS BY HON'BLE THE CHIEF JUSTICE SHRI NARESH H. PATIL, HIGH COURT OF JUDICATURE AT BOMBAY AT THE FULL COURT REFERENCE TO LATE SHRI ASHOK CHHOTELAL AGARWAL, FORMER CHIEF JUSTICE OF MADRAS HIGH COURT, A FORMER JUDGE AND ACTING CHIEF JUSTICE OF THE BOMBAY HIGH COURT, ON 20<sup>TH</sup> MARCH 2019 AT 10.45 A.M. IN THE CENTRAL COURT HALL.**

**MY ESTEEMED COLLEAGUES,**

**SHRI. ANIL C. SINGH,  
ADDITIONAL SOLICITOR GENERAL OF INDIA,  
WHO WILL ADDRESS  
ON BEHALF OF ADVOCATE GENERAL OF MAHARASHTRA**

**SHRI. MILIND SATHE, PRESIDENT,  
BOMBAY BAR ASSOCIATION**

**SHRI. SANJEEV P. KADAM, PRESIDENT,  
ADVOCATES' ASSOCIATION OF WESTERN INDIA,**

**SHRI. KAIWAN KALYANIWALLA, PRESIDENT  
BOMBAY INCORPORATED LAW SOCIETY**

**SMT. ANITA AGARWAL & MEMBERS OF THE BEREAVED FAMILY,  
DISTINGUISHED SENIOR ADVOCATES,  
MEMBERS OF THE BAR,  
LADIES & GENTLEMEN,**

1) Today, we have assembled here this morning to mourn the passing away of Shri Ashok Chhotelal Agarwal, distinguished former Chief Justice of Madras High Court, former Judge and Acting Chief Justice of this Court, who breathed his last at around 2.30 a.m. on 23<sup>rd</sup> February 2019 at Mumbai at the age of 82 years.

2) Justice Ashok Agarwal was born on 27<sup>th</sup> August 1937 in a distinguished family. Shri. C.B. Agarwal father of Justice Ashok Agarwal, did his M.A. from Cambridge University and studied law in Pune. He was Barrister-at-law. He was a well known Lawyer on Criminal side. Mother of Justice Ashok Agarwal, Smt. Shanti Devi was a Gold Medalist in Sanskrit From Gurukul.

3) Justice Ashok Agarwal did his entire schooling in a Public School namely Shri. Shivaji Preparatory Military School, Pune. While in School, Justice Ashok Agarwal excelled various activities of Horse riding, Swimming and Boxing. He was a student of Ferguson College and Wadia College at Pune. He participated actively in debates and sports. After obtaining B.A. Degree, Justice Ashok Agarwal passed LL.B. in 1960.

4) After enrollment as an Advocate on 22<sup>nd</sup> August, 1960 with the Bar Council of Maharashtra & Goa, Justice Agarwal joined the Chamber of renowned Advocate Shri. B.N. Gokhale who was elevated as Judge of this Court and later on, became Union Law Minister.

5) Justice Agarwal started his practice mainly on the Appellate Side of this Court. However, he also practiced in the City Civil and Sessions Court, Metropolitan Magistrate Courts, Small Causes Court and Revenue Courts in Mumbai for about 15 years. He was appointed as Assistant Government Pleader on the Appellate side of this Court.

6) In the year 1974, Justice Agarwal was appointed as a Government Pleader of Writ Cell.

- 7) Justice Agarwal was appointed as a Counsel in Basmatnagar Inquiry and Aurangabad Police Firing case. He discharged his duties as a Lawyer in that capacity from 1976 to 1980.
- 8) In recognition of his qualities, rich experience, standing and reputation at the Bar, Justice Ashok Agarwal was elevated to the Bench on 21<sup>st</sup> November, 1986 as an Additional Judge of this Court and thereafter, appointed as Permanent Judge with effect from 12<sup>th</sup> June, 1987.
- 9) Justice Agarwal was the Acting Chief Justice of this premier High Court in the year 1999.
- 10) On the Bench, Justice Agarwal made a mark of his own. During his tenure of 13 years as a Judge of the Bombay High Court, he delivered number of landmark judgments including Full Bench Judgments in various Branches of law.
- 11) By nature, Justice Agarwal was courteous, helpful and a generous person.
- 12) In the year 1999, Justice Agarwal was appointed as Chief Justice of Madras High Court and in that capacity, he retired on 27<sup>th</sup> August, 1999. In a very short span of three months, Justice Agarwal made his mark as a Judge on the Bench. He dealt with various important legal issues under the Constitution of India, Arbitration and Conciliation Act, National Security Act, Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, Consumer Protection Act and various other Acts.

13) On 27<sup>th</sup> August, 1999 Justice Agarwal retired as Chief Justice of Madras High Court. He was later on appointed as Chairman of the Central Administrative Tribunal at Delhi. In that capacity, Justice Agarwal worked till 26<sup>th</sup> August, 2002. He had contributed a lot in infrastructural development of the Institution.

14) Even after retirement as Chairman, Justice Agarwal was busy and an active person. During the period from 2006 to 2008, Justice Agarwal had worked as Chairman of the Committee in respect of High Rise Buildings. He was Chairman of the Admission Regulatory Committee regulating admission to Private Law Colleges and Higher Technical Educational Institutions. He was much sought after Arbitrator in Mumbai, Delhi and Bangalore.

15) Justice Agarwal had been a keen nature lover. Whenever found time, Justice Agarwal used to be with nature, Mahabaleshwar being one of his favourite place.

16) Justice Agarwal led a full life with his family members, friends, admirers and well wishers. He was active traveler and in that capacity, had visited many countries of the world.

17) In a span of 59 years, Justice Ashok Agarwal functioned as an Advocate and as a Judge. In the demise of Justice Agarwal, we have lost a dedicated lawyer, distinguished Judge and wonderful human being. His contribution to the administration of justice will be remembered for a long time to come. A soft spoken person with a deep sense of understanding, love, compassion for others, breathed his last on 23<sup>rd</sup> February 2019 at Mumbai.

18) He is survived by his wife Smt. Anita Agarwal a distinguished Lawyer practicing in the Bombay High Court, sons namely Shri. Naval and Shri. Ashish Agarwal and daughter-in-laws.

19) On behalf of my Esteemed Sister and Brother Judges and myself, I pay humble tribute to Justice Ashok Agarwal.

In the words of Norman Cousins:

“In the blink of an eye, everything can change.

So forgive often and love with all your heart.

You may never know when you  
may not have that chance again”.

AND

“Death is not the greatest loss in life.

The greatest loss is what dies inside us while we live”.

May his soul rest in eternal peace.

-----

**ADDRESS BY SHRI ANIL C. SINGH, ADDITIONAL SOLICITOR GENERAL AT THE FULL COURT REFERENCE TO JUSTICE SHRI ASHOK C. AGARWAL, FORMER JUDGE OF BOMBAY HIGH COURT AND FORMER CHIEF JUSTICE OF MADRAS HIGH COURT ON 20<sup>TH</sup> MARCH 2019 AT 10.45 A.M. IN THE CENTRAL COURT ROOM NO.46 :**

***The Hon'ble Chief Justice, Shri Naresh Patil,***

***Hon'ble Judges of this Court,***

***President of Bombay Bar Association,  
Shri Milind Sathe,***

***President of Advocates' Association of Western India,  
Shri Sanjeev Kadam,***

***The President of Bombay Incorporated Law Society  
Shri Kaiwan Kalyaniwala,***

***Family members of late Justice Agarwal,***

***Members of the Bar,***

***Ladies & Gentlemen***

*I share the sentiments expressed by the Hon'ble the Chief Justice. A great loss to the legal profession and to society in general has taken place, in the passing of Justice Agarwal.*

*Son of a well known leading criminal lawyer, Justice Agarwal after completing his schooling, graduation and Law Course from Pune, came to Mumbai and started practice on the Appellate Side of Bombay High Court.*

*In his initial days of practice, he used to also attend matters at City Civil and Sessions Court as also the Small Causes Court in Mumbai. Due to his pleasant nature and deep understanding of law, he developed a huge practice within a short time. He also worked as a Government Lawyer in the Writ Cell. He achieved success both in his private practice and as a Government Lawyer.*

*I may say that I had the pleasure of knowing him personally. I came to be introduced to him because he was very close to my Senior Shri Dinesh Gandhi and both of them started practice together and would share one table for a few years in the beginning of their practice. In fact, he was one of the Speakers in the condolence meeting organized by the City Civil Court Bar Association when Shri Dinesh Gandhi passed away sometime back.*

*I remember that in those days, Justice Agarwal was the first lawyer on the Appellate Side, who had started using the Dictaphone, a practice which is today prevalent but then was unheard off.*

*In November, 1986, when he got elevated to the Bench, I still remember, his first assignment was Second Appeals and he sat in Court Room No.26 on the first floor.*

*Senior Advocate Rajiv Patil and Advocate Shri Raghuvanshi informed me that Justice Agarwal had a typical habit of rubbing his right ear while hearing the arguments. If he stopped, it meant that the point clicked. No necessity to push the argument further. He used to write at the Farad only one word `Rule' or `Admit'. He was always open minded, till he passed the order. Though he was very assertive and firm, he never told No to any lengthy arguments nor told no to any assignment. He headed several Division Benches during his tenure, was also Acting Chief Justice of this Court and retired as Chief Justice of Madras High Court.*

*After his retirement as Chief Justice of the Madras High Court, he became the Chairperson of the Central Administrative Tribunal and had an extremely successful tenure there as well. He also worked as Chairman of Pravesh Niyamtran Samiti and Chairman of SC and ST Committee. Apart from the above, he also presided as an Arbitrator in many important Arbitration cases.*

*Justice Agarwal's contribution to the legal fraternity has been immense. He was a very popular Lawyer and equally a popular Judge.*

*I remember, Justice Agarwal was extremely courteous to the Advocates who appeared in his Court. Justice Agarwal was known to be extremely kind to Junior Advocates and would encourage them to argue matters and commend their effort thus, instilling a sense of confidence in junior members of the bar.*

*Known for his knowledge of Law, he was full of grace, sophistication and dignity. He used to be always well dressed and soft spoken. A gentleman Judge, who enjoyed his Judgeship. One would never see him with wrinkles on his face in Court but he would always be smiling. He was known as a liberal Judge but was someone who was always in control of the proceedings.*

*Justice Agarwal will be remembered as a sound, independent and clear headed Judge. His Judgments in various matters, are a testimony to this fact. Justice Agarwal was a great human being, had utmost sincerity and dedication towards his work.*

*Justice Agarwal throughout his professional life, whether it be as a lawyer, Judge or even post retirement was always positive in supporting the programme of the Bar Association and the Bar Council and made it a point to attend almost all the functions, wherever he was invited.*

*On the non-work related front, Justice Agarwal was an avid traveler, which led him to travel to various parts of the country. He enjoyed being in nature, especially Hill Stations. Once he had expressed that his favourite vacation place was Dalhousie, where he would quietly look to read non-legal books. He had weekend home at Lonavla, where he would spend almost every weekend.*

*He had a very big group of friends which ranged through all age groups. Justice Agarwal was fond of keeping fit and used to regularly take walk and swim.*

*He loved singing and he used to sing in Bar Association functions. He lived his life to the fullest.*

*He is survived by his wife Mrs. Anita Agarwal and sons, Naval Agarwal and Ashish Agarwal who are practicing Advocates of this Court. I believe they would faithfully carry forward the legacy and ideas left behind by Justice Agarwal.*

*On behalf of myself, the Advocate General, the State of Maharashtra who is not present today due to some personal difficulty and the Bar Council of Maharashtra and Goa, I express my deepest condolence for the departed soul.*

\*\*\*\*\*

**ADDRESS BY DR.MILIND SATHE, PRESIDENT, BOMBAY BAR ASSOCIATION AT THE FULL COURT REFERENCE FOR JUSTICE ASHOK AGARWAL AT CENTRAL COURT ROOM NO.46, BOMBAY HIGH COURT ON THURSDAY, 20<sup>TH</sup> MARCH 2019 AT 10.45 A.M.:**

The Hon'ble the Chief Justice Mr. Naresh Patil

Other Hon'ble Judges of the Bombay High Court

Additional Solicitor General of India Shri Anil Singh

Mr. Sanjeev Kadam, Advocate,  
President of Advocates' Association of Western India

President of Bombay Incorporated Law Society  
Mr.Kaiwan Kalyaniwala

Members of Late Shri A.C. Agarwal Family

Ladies and Gentlemen

We assemble this morning to mourn the sad demise of Hon'ble Justice A.C. Agarwal, Former Chief Justice of the Madras High Court and Judge of this Court, who passed away on 23<sup>rd</sup> February, 2019 at Mumbai, at the age of 82.

I fully associate myself with the sentiments expressed by the learned Chief Justice and my fellow speakers.

Justice Ashok Chhotelal Agarwal was born on 27<sup>th</sup> August, 1937. After his graduation in faculty of Arts, he obtained LL.B. degree from Pune and then enrolled as an Advocate on 22<sup>nd</sup> August, 1960.

He had an illustrious legal background. His father Barrister Agarwal was one of the top criminal lawyer of his time at Pune and conducted the famous Manwat murder trial. His father had authored commentary on Evidence Act in which work Justice Ashok Agarwal had assisted him.

In the beginning, he practised in the City Civil and Sessions Court, Metropolitan Magistrate Courts, Small Causes Court and Revenue Court in Bombay for a period of about 15 years and thereafter, on the Appellate Side of the Bombay High Court.

Before his elevation, he had large practice in variety of subjects which include both Civil and Criminal Work. His specialisation however was writ practice dealing with the subjects like Co-operative societies, Town Planning, Municipal Corporations and Municipal Councils. He also did lot of work in election law.

Despite such lucrative practice, he answered the call of duty to serve the judiciary and accepted Judgeship in 1986.

He was appointed as Assistant Government Pleader in 1974 on the Appellate Side of the High Court to conduct Writ Petition.

He was appointed an Additional Judge of the Bombay High Court with effect from 21<sup>st</sup> November, 1986 and later was appointed as Permanent Judge on 12<sup>th</sup> June, 1987. He retired on 27<sup>th</sup> August, 1999.

As a Judge, he dealt with almost every subject in Civil and Criminal Law on both Original and Appellate Side. Law reports are replete with judgments authored by him as a single judge as well as heading the Division Benches.

His notable Judgments include:

- 1) Sangli Miraj Kupwad Municipal Corporation v/s Balkrishna - He considered question of appeal under Section 47 of MRTP Act and held that condonation of delay was not permissible (AIR 1999 Bom. 390).
- 2) Hardas Makhija V/s. State of Maharashtra-He dealt with the question of proper procedure to be followed in the case of election to the post of Mayor (1999 (4) BCR 79).
- 3) Hindustan Spinning and Weaving V/s. MCGM - He held that property taxes like water and sewage taxes recovered without authority of law must be refunded and cannot be adjusted towards future taxes (1993 (2) BCR 38).
- 4) In Chase Bright V/s. Shantaram - 1998 (4) BCR 235 - He held that mere filing of application for fixation of standard Rent is not sufficient and what is necessary to diligently prosecute the same application.
- (5) In Govindrao V/s. Apparao - (1987 (3) BCR 493) - He held that under Bombay Public Trusts Act Proceedings before District Court are in the nature of Appeal akin to appeal under Section 100 of CPC though the BPT Act does not use the word Appeal.

He was a courteous, kind yet firm Judge, in fact, all the qualities of a Judge, a lawyer would expect. He conducted his court with grace and dignity and put everyone at ease.

Justice Ashok Agarwal's Court was a delightful place for the juniors. In his court, he never refused circulation of any matter on any date desired by the lawyers. In fact, the moment he would arrive in Court, he would declare all circulations granted. All adjournments by consent granted and then would continue his work for next five hours with his delightful charming smile.

He was described by his contemporaries as the handsome lawyer and Judge for reason of his charming looks and similarity with film-star Raj Kapoor.

In death of Justice Agarwal, we have lost our respected and popular Judge and a noble human being. We are all going to miss his charming smile.

Our heartfelt condolences go out to the family of Justice Ashok Agarwal which include Mrs. Anita Agarwal and Naval Agarwal, who are our colleagues at the Bar.

On behalf of Bombay Bar Association, I express our heartfelt condolences to the bereaved family. Let the departed soul rest in eternal peace.

\*\*\*\*\*

**Address by Shri Sanjeev Kadam, President of Advocates' Association of Western India, at the Full Court Reference for Justice Ashok Chhotelal Agarwal at Central Court Room No.46, Bombay High Court on Thursday, 20<sup>th</sup> March 2019 at 10.45 a.m.**

Honourable the Chief Justice,

Honourable Judges,

Dignitaries on the Dais,

Members of the family of Justice Agarwal,

Mr. Milind Sathe, President of Bombay Bar Association,

Learned Additional Solicitor General Mr. Anil Singh,

President Bombay Bar Association Mr. Kalyaniwala and friends

Today we have assembled here to pay homage to Lordship Justice Ashok Agarwal who left us on 23 February 2019. On behalf of Advocates' Association of Western India, I express my deepest condolences to all the family Members of Justice Agarwal. Though Justice Agarwal belonged to a family of business community and a business family, his father Shri. C.B. Agarwal joined a legal fraternity and after completion of Law Education, started practice in Pune Court. He was one of the person known for the cross-examination of medical witnesses during his time and Justice Agarwal and the next generation followed the path led by Shri Agarwal. After completing his education in Pune, he shifted to Mumbai but many of us may not be knowing that during his school and college apart from his academic career, he excelled in various other activities including swimming, horse riding as well as he was known as a very good singer and that tradition Justice Agarwal

continued during the Cultural Programmes organized by the Advocates' Association of Western India where he voluntarily sang the songs for the audience and the selection of songs mostly of Late Kishor Kumar showed his positive attitude towards life.

My Lord, Justice Agarwal came to Bombay after completion of his Law graduation in August 1960 and began his practice in the City Civil Court and joined Chamber of Shri. Gokhale. It was Justice Ashok Agarwal who was a Member of Advocates' Association of Western India so are his family members who are associated with our Association. With great pride, we say that His Lordship was Member Advocate of Advocates' Association of Western India.

His Lordship Justice Agarwal had a very distinguished practice and it was heart-breath endless achievement that gone merely illustrious of 1974 when the first Government Writ Cell was established by the then Law Minister Shri Antuley. His Lordship was among the few to be appointed along with Barrister Shri Mansing Rao Kadam and others to conduct Writ Petitions on behalf of the Government. His Lordship Justice Agarwal was elevated as Additional Judge of this Honourable Court on 21st November 1986 and was confirmed as permanent judge of this Hon'ble Court on 12 June 1987. However, His Lordship executed his duties with extreme efficiency. The Senior Advocates of this Court and Senior Counsel recounted him as one of the finest Judge. The Advocates' Association

of Western India clearly remembers the patience, encouragement shown to the junior members of the Bar. His Lordship greatly contributed to this August Institution and to the Bar.

His Lordship contributed in heading the Division Bench, looking after the administration work and later as Acting Chief Justice of this Court. In 1999, His Lordship was appointed as Chief Justice of the Madras High Court where in a very short span of time, he won over the members of the Bench and the Bar. One of the significant contributions was that he had selected the venue of the New Bench of High Court at Madurai and had quarters of Law Officers constructed and inaugurated at Pondichery. He used to respect the Senior Counsel and Senior Advocates who had appeared before him. However, at the same time, he was very particular about the judicial discipline in the Court. One of the then counsel who is now a Senior Counsel recounted that "I remember an incident where in an appeal, he had engaged a Senior Counsel who was from out of Mumbai and a request was made to the Bench of Justice Agarwal that his appeal be heard as the counsel told that it was urgent. The appeal was taken up by Justice Agarwal and the counsel from out of station had hurriedly completed the argument in order to leave from Mumbai. Then Justice Agarwal started dictating the judgment without calling upon the counsel for the State. The Senior Counsel realized that the judgment was going against him and the counsel requested the Court that, he was sorry for having not argued fully. Then Justice Agarwal told him that this is an appeal, please argue in detail if you

have some time, or take time but don't treat the matter lightly and the matter was adjourned further and argued. This was judicial discipline of Justice Agarwal. After retirement from the High Court at Chennai, on 27 August 1999 His Lordship was appointed as Chairman of the Central Administrative Tribunal and he carried out various activities in Central Administrative Tribunal and travelled throughout the nation. On returning to Maharashtra in 2002, His Lordship held various important posts including the Chairman of the Scheduled Castes and Scheduled Tribes Committee, as well as Chairman of the Pravesh Niyamtran Samiti which pertains to regulation of admission for Law Colleges and other Technical Institutions. His Lordship was appointed also as an Arbitrator in number of disputes. He shared commitment to serve society and sincerity to perform his duty to the best of his ability. He set an example in November 2018, when His Lordship was not keeping good health and he was in hospital, in one arbitration matter pending, in which His Lordship was appointed as arbitrator, as soon as he came home from hospital, he conducted the hearing and passed the award in that arbitration matter. When he was relieved, he said that "I have completed all my work now no more work".

His Lordship Justice Agarwal dedicated his life to the profession and the Institution. In conclusion, I would borrow the lines of American Poet Henry Longfellow, who said -

“Lives of great men all remind us  
We can make our lives sublime,  
And, departing, leave behind us  
Footprints on the sands of time;

And justice Agarwal will definitely be a guiding factor to all future generations.

I for myself and on behalf of Members of the Advocates' Association of Western India, pay tribute to Justice Agarwal.

\*\*\*\*\*

**Address by Kaiwan Kalyaniwalla, President, Bombay Incorporated Law Society at the Full Court Reference for Justice Ashok Chhotelal Agarwal at Central Court Room No.46, Bombay High Court on Thursday, 20<sup>th</sup> March 2019 at 10.45 a.m.**

My Lord the Chief Justice,

Hon'ble Judges of the Bombay High Court,

Mr. Additional Solicitor-General, Presidents of the Bombay Bar Association and the Western India Advocates Association.

I address this Reference as President of the Bombay Incorporated Law Society on whose behalf, I express condolences on the sad demise of Justice Ashok Agarwal.

I concur with the sentiments of my Lord the Chief Justice, and the feelings that have been expressed by my colleagues at the Bar.

Justice Agarwal had an illustrious career having been a well-reputed lawyer, Judge of the Bombay High Court and the Chief Justice of the Madras High Court. He was a thorough gentleman; it was a pleasure appearing before him. His interests and achievements took him beyond the practice of law. Justice Agarwal was admired by the members of the legal fraternity both in the High Courts of Mumbai and Madras.

In the passing on of Justice Agarwal, we have lost not only a fine Judge, but also a distinguished gentleman.

Our heartfelt condolences to the members of his family.

May his soul rest in peace.

\*\*\*\*\*