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FULL COURT REFERENCE MADE BY THE HON'BLE SHRI C.K. THAKKER, CHIEF JUSTICE, HIGH COURT OF JUDICATURE AT BOMBAY, TO LATE SHRI JUSTICE MADHUKAR NARHAR CHANDURKAR, FORMER CHIEF JUSTICE, BOMBAY AND MADRAS HIGH COURTS, ON THURSDAY, 11TH MARCH, 2004.

My esteemed colleagues, Mr. Chagla, on behalf of Advocate-General, Mr. Dhakephalkar, President of Advocates' Association of Western India, Mr. Deshmukh, Member, Bar Council of Maharashtra & Goa, Mr. Dada, President of the Bombay Bar Association, Mr. Mehta, President of the Incorporated Law Society, (Absent, though intimated) Members of the Bar, Ladies and Gentlemen,

Today we have assembled here to mourn the sad demise of Hon'ble Mr. Justice Madhukar Narhar Chandurkar, former Chief Justice of this Court and of the High Court of Madras, who left for his heavenly abode on Saturday, the 28th February, 2003.

Justice Chandurkar was born on 14th March, 1926. He was educated at the Somalwar Academy and Hislop College at Nagpur. After securing M.A. Degree in Economics, he joined the staff of the National College at Nagpur and later on at the Hislop College. He was, however, attracted towards the profession of his father and brother and after obtaining I.L.B. degree from University College of Law, Nagpur, he joined the District Bar at Nagpur in 1952. Before joining the Bar, he worked as Lecturer in Economics in two Colleges affiliated to Nagpur University. He also acted as President and Secretary of the Nagpur East Rotary Club. He was enrolled as an Advocate of the Bombay High Court at Nagpur on 13th December, 1954. He soon made mark in the profession. He mainly practised in Civil, Criminal and Tax matters from 1954 to 1967. He was a distinguished lawyer. Devotion to duty, courtesy, sweet amiableness and a sense of humour were his virtues. He had a lucrative practice. He was associated with a number of business concerns as a legal adviser. He was Assistant Government Pleader and also the Standing Counsel for the Income Tax Department at Nagpur. He had been very popular with his colleagues and was elected to the Maharashtra Bar Council, of which he was the Vice-Chairman.

He was appointed as Additional Judge of the High Court on 28th October, 1967 and was made Permanent on 7th August, 1968. He was appointed as the Chief Justice of this Court in January, 1984. Under the transfer policy of the Government, Justice Chandurkar was transferred as the Chief Justice of the High Court of Judicature at Madras and retired on 14th March, 1988. During the long span of 21 years as Judge and the Chief Justice, His Lordship had rendered many landmark judgments.

Many of you must be aware that on 1st January, 1978, Air India's Boeing 747-200 (Emperor Ashoka) crashed into the Arabian Sea at Bombay shortly after takeoff, killing all the 190 passengers and 23 crewmen. Justice Chandurkar was appointed as the one man Commission to inquire into the cause of the accident. His Lordship's Report was very much appreciated by the Central Government and, I am told, the recommendations made therein were accepted in toto.

After retirement, Justice Chandurkar had been acting as either Sole Arbitrator or as Co-Arbitrator in disputes arising out of commercial and Engineering contracts. He had also been appointed as Umpire/Presiding Arbitrator in many matters where the disputes are referred to two Arbitrators. He was also appointed as Arbitrator by the Supreme Court and by the High Court of Calcutta.

In his passing away, we have lost an eminent jurist and a 'friend, philosopher and guide'. Justice Chandurkar is survived by his widow and two daughters, one of whom, Anjali, is an Advocate practising in this Court. In this hour of grief, on behalf of my esteemed colleagues, on my own behalf and on behalf of all of you assembled here, I convey my heartfelt condolences to the members of the bereaved family. May the Almighty give them strength to bear this great loss and may the departed soul rest in eternal peace.

FULL COURT REFERENCE MADE BY MR. I.M. CHAGLA, SENIOR ADVOCATE, ON BEHALF OF THE ADVOCATE GENERAL, TO LATE SHRI JUSTICE MADHUKAR NARHAR CHANDURKAR, FORMER CHIEF JUSTICE, BOMBAY AND MADRAS HIGH COURTS, ON THURSDAY, 11TH MARCH, 2004.

My Lords,

The learned Advocate General has had unavoidably to go out of the country. Before he left, he requested me to join this Reference and speak on his behalf.

On behalf of the Advocate General and on my own, I fully associate myself with all that has fallen from my Lord the Chief Justice.

We are here to mourn the sad demise of Justice M.N. Chandurkar, a former Chief Justice of this Court and a former Chief Justice of the Madras High Court. He was one of those rare men who combined the virtues that make a good judge: intelligence, industry, courtesy, the willingness to listen and the humility to learn. When he was felicitated by the Bar on his elevation in 1967, he very significantly reminded himself of the words of an English jurist who said:

"A Judge should avoid all seeming to know the law which he does not know; he should take it patiently and quietly from counsel.

A Judge should avoid too great a haste. Talk so far as to let the Counsel know the difficulties which press on his mind in the view he presents, but not so as to prevent his answering these difficulties. Give a benignant and receptive listening to each side, so as to feel the full force of the argument on each side; and then judge between them."

After taking his Masters degree from Nagpur University, Justice Chandurkar began to teach at his alma mater. It was his father, himself a distinguished lawyer, who persuaded him to exchange the teacher's gown for that of the lawyer. At the Bar he soon acquired a large practice but nevertheless made time to teach law and edit legal journals. In fact he founded the Maharashtra Law Journal of which he was Editor until his elevation.

My first appearance before him was when he sat in a Bench consisting of Justice P.B. Sawant and himself. The residents of Colaba were deeply concerned about the potential pollution from a proposed extension of the fishermen's wharf at Sassoon Dock. They filed a petition that today might be termed as a Public Interest Litigation in which I agreed to appear. The single Judge dismissed the petition and in the course of the hearing of the appeal, the judges in their desire to do complete justice, actually visited Sassoon Dock to better understand the problem of the residents and the fishermen. Today, largely as a result of this intervention, there exists a beautiful garden, built by the port trust.

Justice Chandurkar was Acting Chief Justice and then the permanent Chief Justice of this Court for about a year before going to the Madras High Court. In the 5 years that he was Chief Justice of that Court, he made an indelible imprint. When on occasion I have gone to the Madras High Court, I am always happy to learn that he is remembered there with respect and affection.

Upon retirement, as would be expected, he was greatly in demand for advice and as an arbitrator. At the time of his demise, he was an arbitrator in some 60 unfinished arbitrations.

As with all well-rounded personalities, in the midst of all his work, he made time for a world beyond the law: in his case it was a game of tennis that he loved and played regularly and the time that he made for his family. He was intensely devoted to his wife and his daughter, Anjali, who is our colleague at the Bar. To his other daughter Asha, who is unfortunately handicapped, he showered not only love but the greatest patience and kindness.

My Lords, it is difficult to believe that Justice Chandurkar is no more: barely a month ago he was on the tennis courts and within just 19 days of the diagnosis of the dreaded disease of cancer, he was gone. This coming Sunday he would have been 78 years of age, perhaps a little more than the biblical span of three score and ten, but much too young for a man as active as in mind and in body.

There are no words that I can offer that can serve as any solace to his grieving family. I can only say that he will be greatly missed by us all.

FULL COURT REFERENCE MADE BY MR. S.G. DESHMUKH, MEMBER, BAR COUNCIL OF MAHARASHTRA & GOA, TO LATE SHRI JUSTICE MADHUKAR NARHAR CHANDURKAR, FORMER CHIEF JUSTICE, BOMBAY AND MADRAS HIGH COURTS, ON THURSDAY, 11TH MARCH, 2004.

The Hon'ble the Chief Justice, The Hon'ble Judges of this Court, Shri Prasad Dhakephalkar, President of AIWI, Shri Rafiq Dada, President of Bombay Bar Association, and my learned friends,

I feel myself specially privileged this morning to have an opportunity to pay my tributes to late Justice Chandurkar on behalf of the Bar Council of Maharashtra & Goa. I represent the Bar Council, which was adorned by Justice Chandurkar as a Member and Vice Chairman thereof. In 1967 when Justice Chandurkar was elevated to the Bench of this Hon'ble Court, he was the Vice-Chairman of the Bar Council of Maharashtra and Goa. Apart from his other qualities, which were narrated by the Hon'ble the Chief Justice and which will be narrated by the other speakers today, the facet which I consider to be the most important one from my point of view as a member of the Bar is the quality of leadership with which he led the Bar in this State. Since 1952, when he joined the District Bar at Nagpur and thereafter in 1954 when he was enrolled as an Advocate of this Court, he acted like a true leader of the Bar which continued till his elevation to the Bench of this Hon'ble Court in 1967. The very fact that he was then elected as a member of the Bar Council of Maharashtra speaks for his eminence in practice and his popularity with his colleagues at the Bar. The working of the Bar Council and various projects undertaken and successfully completed by the Bar Council during his tenure as a member and as the Vice Chairman are the testimonials of his leadership qualities.

Justice Chandurkar's was a multi-faceted personality. He was a scholar during his academic career, which entailed professorship being offered to him in his own College. He was an excellent lawyer and meritorious law teacher. He was an erudite editor of law journals and one of the most esteemed Judges of this Court.

As a Judge, Justice Chandurkar was always considered to be an upright person. Justice Chandurkar belonged to the old school of Judges, which believed in justice according to law and did not believe in bending or twisting the law. I had occasions to appear in his Court as a very raw junior. Even then I could feel an air of fairness and certainty in his Court regardless of the faces which appeared before him. It used to be very comfortable atmosphere in his Court, which has become very rare these days.

I cannot avoid the temptation of quoting what Justice Chandurkar quoted in reply to the felicitation received by him from the High Court Bar Association on his elevation. Justice Chandurkar, then quoting a notable member of the Lincoln's Inn, said :

"A Judge should avoid too great a haste. Talk so far as to let the Counsel know the difficulties which press on his mind in the view he presents, but not so as to prevent his answering these difficulties. Give a benignant and receptive listening to each side, so as to feel the full force of the argument on each side; and then judge between them."

Justice Chandurkar never allowed himself to forget this and lived upto these standards till he was on the Bench. A member of the Bar does not except anything more than this from the Bench. Unfortunately, however, these days we are required to remind ourselves of this.

I also cannot avoid the temptation of quoting what Justice Chandurkar always believed, both as a lawyer and as a Judge. Justice Chandurkar believed, and I quote :

"That the Bench and the Bar members of the profession, divided, it is true, into two branches, those who have to decide, and those who argue with a view to convince. Let us both see to it that we are loyal each to the other. Bench to Bar and Bar to Bench. Then the tree of justice of which these two branches are the most important parts, will not suffer from the aridity induced by lack of regard."

Justice Chandurkar never ceased in his constant endeavour to uphold the dignity of the Bar at all times, even while he was a Judge of this Court.

It will be a fitting tribute to Justice Chandurkar if we remind ourselves of this ideology cherished by him throughout his life and re-dedicate ourselves to the joint endeavour in the cause of administration of justice.

May his soul rest in peace.

FULL COURT REFERENCE MADE BY MR. R.A. DADA, PRESIDENT, BOMBAY BAR ASSOCIATION, TO LATE SHRI JUSTICE MADHUKAR NARHAR CHANDURKAR, FORMER CHIEF JUSTICE, BOMBAY AND MADRAS HIGH COURTS, ON THURSDAY, 11TH MARCH, 2004.

My Lord, the Chief Justice, My Lords, the Judges of this Court, my colleagues at the Bar,

On behalf of the Bombay Bar Association I endorse the sentiments expressed by the learned Chief Justice, Mr. Chagla on behalf of the Advocate-General, and my colleagues at the Bar.

It was a cruel hand of fate that snatched away Mr. Justice Chandurkar on 28th February, 2004. The news came as a great shock to all of us.

Mr. Justice Chandurkar sat in this Court since 1967. He came on to the Bench after leaving a lucrative practice and after having presided as Vice Chairman of the Maharashtra Bar Council.

In the Bombay High Court, Justice Chandurkar heard many complex cases and delivered many important judgments. I had the privilege of appearing before him in the famous case where provisions of the Maharashtra Debt Relief Act were challenged. Justice Chandurkar sat with Mr. Justice Lentin and heard the matter for over four weeks. The judgment was soon delivered and came as a great relief to many debtors of this city.

In 1983 Mr. Justice Chandurkar with Mr. Justice Gadgil heard the appeal in the case of *National Rayon Corporation v. UTI & Ors.* This was an important matter relating to the provisions of Section 80 of the Companies Act. The analysis in the judgment has gone down in law books as a classic enunciation of the law. Soon after that Justice Chandurkar sat in the First Court and thereafter went away to Chennai.

On his return from Chennai, Mr. Justice Chandurkar worked as an Arbitrator in many matters. The ADR mechanism, especially arbitration, works so well in Bombay and this was in no small measure to Mr. Justice Chandurkar. Such was his dedication that virtually till last day, he signed Awards in some concluded cases. Mr. Justice Chandurkar conducted his Court with great courtesy and brought a quiet dignity to his office. He was soft spoken but firm and elicited the best from the Bar.

I met him very often when he was on his evening walk or after he came out from a vigorous game of tennis. His greeting was always warm and affectionate. His passing away has left a great void. We will miss his familiar figure.

We extend our condolence to his wife, Mrs. Chandurkar, and to his two daughters. His daughter, Anjali Chandurkar, who is our colleague, has now the responsibility to carry on the great tradition of the family.

We pray to the Almighty that he may grant the family the strength and fortitude to bear this great loss. Mr. Justice Chandurkar is lost to us, but is secure in the annals of the history of this Court as a great Judge, a good soul and a great human being.

FULL COURT REFERENCE MADE BY MR. P.K. DHAKEPHALKAR, PRESIDENT, ADVOCATES' ASSOCIATION OF WESTERN INDIA, TO LATE SHRI JUSTICE MADHUKAR NARHAR CHANDURKAR, FORMER CHIEF JUSTICE, BOMBAY AND MADRAS HIGH COURTS, ON THURSDAY, 11TH MARCH, 2004.

My Lord, the Hon'ble the Chief Justice, The Hon'ble Judges of this Court, Shri Iqbal Chagla representing the Advocate General, Shri S.G. Deshmukh, Member, Bar Council of Maharashtra & Goa, Shri Rafiq Dada, President of Bombay Bar Association, and my learned friends at the Bar,

It is important to pay tribute to the life and achievements of a great Vidharbian, who was born and raised in Nagpur.

Justice Chandurkar was very public-spirited personality and always thought that it was the duty of every individual to give back to the society its debts. He took up many social causes as President of Itwari Rotary Club. He was Chief Editor of Maharashtra Law Journal for a number of years. He always thought that it is a great, noble and arduous task to be a Judge and it is the duty of every lawyer to accept this task. Keeping this in mind, in the year 1967, he accepted the offer to become a Judge of the Nagpur Bench of the Bombay High Court, leaving behind his large and lucrative practice.

He was at Nagpur till June, 1975 and thereafter he came to Bombay. Nagpur, once upon a time a capital of Central Province and Berar, the traditions of different Benches and Bar had mingled. However, the Nagpur Bar maintained their original glory and adopted the traditions of Bombay Bench and Bar. In Nagpur, there were no compartments in which the Bar and the Bench were isolated. Justice Chandurkar brought this tradition to Bombay High Court and was always very friendly and benevolent towards the members of the Bar. Justice Chandurkar was a true Vidharbian and a true Nagpurian. He brought large heartedness, generosity, frankness and courage of conviction of a true Vidharbian to Mumbai. On Bench, he was always smiling, gentle, but firm. He always encouraged juniors. He was honest to the core and he had a very receptive and open mind. He always had cause of common man to his heart. No matter was big or small to him. The judicial duties in modern time involve a choice and high purpose in decisions which affect public life in the country. On the Bench, his mind would work like an expert surgeon's knife through maze of facts and intricacies of law and he would get to the core of issue and the matter, in minutes. Within a short span of time, he became a very popular Judge at Mumbai. He had excellent rapport with the lawyers. During his time, he wrote an astonishing number of landmark decisions in all areas of law. He will be remembered for his knowledge of law, his breadth of vision, clarity of his reasoning and his empathy for the individuals. He became one of the eminent Judges who occupied the seats on the Bench at Nagpur like Sir Gilbert Stone, Sir Bhawani Shankar Niyogi, Mr. Vivian Bose, Justice Hidayatulla, Mr. M.R. Bobde, Justice Chandrashekar Dharmadhikari, to name a few. Like many other peers from Nagpur Bar, such as Sir Bipin Babu, Bapurao Dada, Tatyasaheb Kinkheda, Kakasaheb Puranik, Barrister Abhyankar, Samiulla Khan, Madhavrao Padhye, he held aloft the torch of patriotism, social service and was a leader all along in every sphere of life. He always had well grounded knowledge of law and practice.

Moderation, tolerance, responsibility and compassion – these words epitomize Justice Chandurkar's service in this Hon'ble Court. By his temperament training and hard work, he became one of the great Judges of the Bombay High Court. After he was appointed as Chief Justice in 1983, he was transferred as a Chief Justice of Madras High Court. I remember, there were representations sent by this Bar to the Hon'ble Chief Justice of India that he should not be transferred from Bombay. However, it was not to be so, and the loss of Bombay High Court was a gain of Madras High Court. In a short span of time, he became a very popular Chief Justice at Madras High Court and to this date the lawyers at Madras are indebted to him for leading Madras High Court with great distinction and devotion. One of the eminent lawyer who subsequently became a Judge of the Madras High Court, Shri D. Raju, said about Justice Chandurkar "the eminence which he had achieved in different walks of life, did not in the least, affect his characteristic humility and simplicity which very likely stemmed from the humble way he had embarked on the journey of life."