

ADDRESS BY HON'BLE SHRI JUSTICE MOHIT S. SHAH, CHIEF JUSTICE, HIGH COURT OF JUDICATURE AT BOMBAY, AT THE FIRST COURT REFERENCE TO LATE JUSTICE SIRAJ MEHFUZ DAUD, FORMER JUDGE OF THIS HIGH COURT, ON TUESDAY 13TH JULY, 2010.

My esteemed colleague, Shri D.J.Khambatta, Additional Solicitor General, Shri D.R. Zaiwalla, Vice-President, Bombay Bar Association, Shri A.P. Mundargi, President, Advocates' Association of Western India, Shri Priyahas Jani, Vice-President, Bombay Incorporated Law Society and Shri Anil Singh, Member, Bar Council of Maharashtra & Goa, learned Members of the Bar, members of the bereaved family, Ladies and Gentlemen,

We have assembled here this morning to mourn the sad demise of late Shri Justice Siraj Mohfuz Daud, a former Judge of this Court, who left for his heavenly abode on Monday 10th May, 2010, at the age of 79 years.

Justice Daud was born on 1st January, 1931. Right from the beginning Justice Daud was a brilliant student. He won prizes for Essay writing and Debate while obtaining graduate degree in Arts. He obtained M.A. in Political Science from the Nagpur University and stood third in the University. Not only that, but he stood 1st in merit rank while obtaining LL.B. degree. After enrolment as a District Pleader in 1951 at Nagpur and after putting in practice for three years, Justice Daud joined the judicial service as Civil Judge, Junior Division, on 6th September, 1954. He was promoted and appointed as District Judge on 16th August, 1974 and Selection Grade District Judge on 25th January, 1982. After working as Registrar of the Bombay High Court from 20th December, 1982 to 30th July, 1985 and in recognition of his hard and sincere work Justice Daud was elevated to the Bench of the Bombay High Court on 31st July, 1985.

Justice Daud adorned the Bench of this High Court for more than seven years i.e. from 31st July, 1985 to 1st January, 1993.

For more than 31 years, Justice Daud dealt with each case with cent per cent receptivity which every citizen expects from a Judge. He had written several articles on various issues of law and interpretation. Justice Daud's vast experience in various branches of law and awareness of social realities helped him to resolve many disputes. He was known for his principles, integrity and fearlessness which were non-negotiable throughout his life. His legal acumen and robust common sense combined with his great passion to do justice, made him a well-rounded judicial personality. During his tenure as a Judge of the Bombay High Court, he dealt with a large number of important cases as reported in various law journals. I have seen the judgments delivered by Justice Daud. The cases decided by him pertain to almost all branches of law i.e. constitutional, criminal, civil and local laws. The judgments written in simple language are mirror of his deep understanding of law, rich experience and outstanding discharge of his judicial work. This is clear from the lucid judgments of Justice Daud.

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Justice Daud was indefatigable, inasmuch as, after demitting office, he had become more energetic and continued to devote his time, energies and rich experience to various social causes. After retirement, Justice Daud enrolled himself as a Senior Advocate in the Supreme Court of India.

On academic side, he continued to work relentlessly. His work and reports on NGO Tribunals of International Human Rights Commission were relied upon by Mumbai University for formulation of Post-graduate Course in Human Rights. Justice Daud used to give regular lectures as visiting faculty for Human Rights PG Course of Mumbai University and was also an examiner in Ph.D. in Law. He was associated with several bodies working for human rights, law and international relations and contributed to several books on these subjects.

In the passing away of Justice Daud, we have lost a 'friend, erudite Judge, philosopher, a guide and above all, a good human being'. In this hour of grief, on behalf of all of us, I convey our heartfelt condolences to the members of the bereaved family. May the Almighty give them strength to bear the great loss and overcome the grief.

May the departed soul rest in eternal peace.

ADDRESS BY SHRI DARIUS J.KHAMBATA, ADDITIONAL SOLICITOR GENERAL OF INDIA AT THE FIRST COURT REFERENCE TO LATE JUSTICE SIRAJ MOHFUZ DAUD, FORMER JUDGE OF THIS HIGH COURT, ON TUESDAY 13TH JULY, 2010.

The Hon'ble the Chief Justice, the Hon'ble Justice Dharmadhikari, Shri Anil Singh, Member, Bar Council of Maharashtra, Shri Zaiwalla, the Vice-President of the Bombay Bar Association, Shri Mundargi, the President of the Advocates' Association of Western India, Shri Jani, the Vice-President of the Bombay Incorporated Law Society, members of the family of the late Justice S.M.Daud, members of the Bar, Ladies and Gentlemen,

We have assembled today to pay homage to the late Justice S.M.Daud, a Judge of this Court from 1985 to 1993.

The life of Justice S.M.Daud speaks volumes for his observance of discipline and duty in the administration of justice. By sheer dint of hard work he rose from the lowest rank of the subordinate judiciary to Judge of the highest court of the State. Justice Daud was a man of few words, but he had a gravitas about him in Court. I remember his solemn persona, slight frown and eloquent silence. But he spoke, as Judges must, through his judgement.

The 8 years of his tenure as a High Court Judge exemplified his devotion to his calling. Justice Daud spoke on diverse controversies in law. Justice Holmes spoke about the need of the Judges to be conscious of the "*felt necessities of time*". Justice Daud understood these necessities and the need for a Judge to be conscious of them whilst deciding a case. He delivered passionate judgments which emanated from his strong sense of justice.

Justice Daud upheld the freedom of speech and expression in a case involving a documentary made by a foundation on Bhopal Gas Tragedy titled "*Beyond Genocide*". It was refused a 'U' certificate by the Central Board of Film Certification as the Board felt that the film was objectionable as sweeping allegations were made against the Government of the day. Justice Daud issued a Writ in favour of the foundation asking the Board to issue a 'U' certificate. In Catholic Association of Bombay v. Municipal Corporation AIR 1992 Bombay 100 Justice Daud put the valuable constitutional right to practice religion on the same pedestal as a right to life and personal liberty and protected "an ancient cross" revered by a section of public standing on a footpath in an area of less than 1 ft. by restraining the Bombay Municipal Corporation from demolishing the cross as an obstruction.

From religion to rack renting was part of the wide spectrum of case. It was Justice Daud who delivered the first judgement in the long feud between the Bombay Port Trust and its tenants. He laid down certain parameters restricting the right of a public authority to increase rents. The law he laid down was, years later, upheld by the Supreme Court.

No reference to Justice Daud would be complete without a mention of the two Suits that he tried and decided in *Bomi Mistry v. Kesharvani Housing Society*. Starting the matter a few days before his then assignment was to end he surprised the galaxy of lawyers appearing by announcing that he proposed to hear the matter every morning between 9 – 11 am. None in that Court room realized that the trial would last a year and a half. Each day after those two hours Justice Daud would then put in a full day's work disposing of various matters. Ultimately he marshaled the evidence and facts and gave two judgments that encompassed several intricate aspects of law including trust law, specific relief, evidence easements and negative covenants. They were landmark judgments and Justice Daud's expertise in trial actions came to the fore when he handled what was a Herculean task with consummate ease. Justice Daud also delivered several other important judgments such as in the dereservation case – a challenge to the en masse dereservation of over two hundred plots in Mumbai.

After his retirement, in recognition of his worth, he was appointed to several public assignments which he discharged with devotion.

Justice Daud commanded obedience and respect. He was throughout his tenure a man of exceptionally few words. But his judgments spoke strongly and eloquently.

He is now enveloped into an eternal silence. Our deepest condolences on behalf of the Bar to members of his family. May God bless his soul.

ADDRESS BY DINSOO ZAIWALLA, VICE PRESIDENT, BOMBAY BAR ASSOCIATION AT THE FIRST COURT REFERENCE TO LATE HON'BLE SHRI JUSTICE SIRAJ MEHFUZ DAUD ON 13TH JULY, 2010.

The Hon'ble the Chief Justice, Hon'ble Justice Dharmadhikari, learned Additional Solicitor General of India, President of Advocates Association of Western India, Vice President of the Bombay Incorporated Law Society and Member, Bar Council of Maharashtra and Goa.

I join in the tribute which has been paid to late Shri Justice Daud. I cannot add anything more to it except that I have a privilege of appearing before him when he was sitting on the Original Side of our High Court. He had a deep legal knowledge, fairness including vast experience which was appreciated by members of Bar. I join in the tribute which has been paid to late Shri Justice Daud. I join in extending sympathy to the members of his bereaved family. May his soul rest in eternal peace.

REFERENCE BY MR. A.P. MUNDARGI, PRESIDENT, ADVOCATES ASSOCIATION OF WESTERN INDIA, AT THE FIRST COURT REFERENCE TO LATE HON'BLE SHRI JUSTICE SIRAJ MEHFUZ DAUD ON 13TH JULY, 2010.

Hon'ble the Chief Justice Shri Shah, Hon'ble Shri Justice Dharmadhikari, Family member of Mr. Justice S.M. Daud,

Mr. Khambatta, the Additional Solicitor General of India, Mr. Zaiwala, Vice President of Bombay Bar Association, Mr. Anil Singh, Member of Bar Council of Maharashtra and Goa, Mr. Jani, Vice President, the Incorporated Law Society, my colleagues of the Bar,

On behalf of the Advocates Association of Western India I stand here to condone the demise of Mr. Justice S.M. Daud, who passed away at Nagpur on 11th May, 2010.

Mr. Justice Daud was a brilliant student, who began his career as a District Pleader. He joined the Judicial service as the J.M.F.C. And Civil Judge, Junior Division at Amravati in September 1954. He was promoted as Assistant Judge in 1968 and as a District Judge in 1974.

He also worked as Deputy and Joint Secretary to the Government of Maharashtra in the Law & Judicial Department at Mantralaya. In 1992 he became the Registrar of this Hon'ble Court.

He was elevated as the permanent Judge of Bombay High Court in the year 1985 from where he retired in January, 1993.

Justice Daud had an excellent command of the English language. His judgments were precise, to the point and very brief. His handwritten orders were exceptional for its language, content and points of law (although at times due to his typical handwriting it took some time to understand them).

He was an able Administrator as well as extremely able Judge. Since he sat mostly on Appellate Side and that too on Criminal Side we had plenty of interaction with him. I still remember, Justice Daud would take his seat five minutes before 11.00 a.m. And finish with all the mentioning so that the the board would start at 11.00 a.m. Sharp. He would be prepared to decide the matters on board and would pass most of orders by hand and still manage to finish his heavy board of about 40/50 matters before 1.00 p.m. The final hearing would commence by 1.00 p.m., and each one of us had a patient hearing. On several occasions with the consent of both sides he commenced hearings at 8.30 a.m., and sat till 10.30 a.m. For the matter. At 11.00 a.m. He attended to his daily board.

He played a major role in process of revising the High Court Appellate Side Rules.

He was very knowledgeable and a voracious reader. It was always a pleasure to work in his Court. If you were prepared on facts and even faulted on law, he was there to assist young layers and seniors, therefore, had no reservations about sending juniors to argue.

Even after his retirement he had kept himself busy in arbitration matters and worked for social causes.

He passed away, after leading a very meaningful life at the age of 79. I on behalf of the Advocates Association of Western India share the profound grief and sorrow with his family and pray to the Almighty to give them courage and strength to cope up and overcome their personal loss and we also pray that the departed soul may rest in eternal peace.

ADDRESS BY MR. PRIYAHAS A. JANI, VICE PRESIDENT OF THE BOMBAY INCORPORATED LAW SOCIETY AT THE FIRST COURT REFERENCE TO LATE JUSTICE SIRAJ MOHFUZ DAUD, FORMER JUDGE OF THIS COURT ON TUESDAY 13TH JULY, 2010

My Lords, Hon'ble the Chief Justice and My Lord Mr. Justice S.C. Dharmadhikari, Mr. Daraius J. Khambata, Additional Solicitor General, Western Region, Mr. Anil Singh representing the Bar Council of Maharashtra, Mr. Dinshoo Zaiwala, Vice President, Bombay Bar Association, and Mr. Ashok Mundergi, President Western India Advocates Association.

It is with deep sorrow that the members of the Bombay Incorporated Law Society, associate with the sentiments, which have been expressed here.

On 10th May 2010 after completing 80 years of his life Justice Siraj Mehruz Daud breathed his last in Nagpur. At the time of his death Justice Daud was the Vice President of Lok Raj Sangathan. After his retirement as Judge in the year 1993 Justice Daud took up with rebounded vigour the cause dearest to his heart the defence of the rights of the people. He was a part of the International human Rights Commission Tribunal inquiring into:

- (a) Communal rioting in Mumbai in 1992-93
- (b) Firing in Ramabai Colony, Mumbai
- (c) Stampede on Gowaris Meet in Nagpur
- (d) Demolition of slums in Mumbai.

He was also part of the International Human Rights and Environmental Commission inquiring into the plight of Narmada oustees in Madhya Pradesh, Gujarat and Maharashtra.

As a Judge he was soft but firm. His judgments were well reasoned and articulate. He was a rationalist. He was critical of the practice of the triple talaq and wearing of burkha. He championed the cause of education for women in particular for Muslim women.

I respectfully join my Lords and my colleagues in the prayer that the soul of Justice Siraj Mehruz Daud may rest in eternal peace and his abiding memories may live for long.

The Bombay Incorporated Law Society offers its condolences to the members of his family by stating that "Like you and me and rest of us he died because he was born."

ADDRESS BY MR. ANIL C. SINGH, MEMBER, BAR COUNCIL OF MAHARASHTRA AND GOA AT THE FIRST COURT REFERENCE TO LATE JUSTICE SIRAJ MOHFUZ DAUD, FORMER JUDGE OF THIS HIGH COURT ON TUESDAY 13TH JULY, 2010

Honourable the Chief Justice Mr. Mohit S. Shah

Honourable Mr. Justice Satyaranjan Dharmadhikari

Honourable Additional Solicitor General Shri D. J. Khambatta

Honourable Shri D. R. Zaiwalla, Vice President, Bombay Bar Association,

Honourable Shri A. P. Mundargi, President, of Advocates Association of Western India.

Mr. Priyahas A. Jani, Vice President of Incorporated Law Society

Members of late Justice Daud's family, Members of the Bar, Ladies and Gentleman.

Mr. Siraj Mehfuz Daud, a well-known personality in the judicial field passed away on 11th May 2010 at Nagpur at the age of 79.

Born on 1st January, 1931, Mr. Justice Daud had his school education in Bishop Cotton School, Nagpur. He completed graduation in law from University College of Law, Nagpur and he was enrolled as District Pleader in 1952 at Nagpur.

Within a short span of his professional career, on 6th September 1954, he was selected as Civil Judge, Junior Division and Judicial Magistrate, First Class at Amravati in Vidarbha Region.

On 1st February 1968 he was promoted as Assistant Judge and from 16th August 1974 was appointed as District Judge.

Worked as Deputy & Joint Secretary to the Government of Maharashtra in the Law & Judiciary Department at Nagpur from January, 197.

Promoted as Selection Grade District Judge on 25th November 1982 and thereafter on 20th December 1982 was appointed as Registrar, High Court, Appellate Side, Bombay.

On 31st July 1985 Justice Daud was appointed as permanent Judge of Bombay High Court. Justice Daud retired on 1st January, 1993.

Some judicial officers mark their imprint in the legal history. Justice Daud was

one of them. Justice Daud was also Chairman of the Committee to assist the re-settlement and rehabilitation of the Sardar Sarovar Project affected persons.

By his death legal fraternity has suffered major loss.

On behalf of myself and Bar Council of Maharashtra and Goa, I convey our deepest condolences to the members of the family of Justice Daud. May his soul rest in eternal peace.