

**REFERENCE BY THE HON'BLE SHRI S.K.DESAI, ACTING CHIEF JUSTICE TO THE LATE SHRI V.S.DESAI, RETIRED JUDGE OF THE BOMBAY HIGH COURT, ON 26TH APRIL 1989 AT 11.00 A.M.**

Mr.Page, Government Pleader, Mr.Cooper, President, Bombay Bar Association, Mr.Rege, President, Western India Advocates' Association, Mr.Damodar, President, Incorporated Law Society, Members of the Bar :

Justice V.S.Desai was born on 7<sup>th</sup> September 1907 in the erstwhile Sawantwadi State. He had his early school education at Vengurla, but thereafter, he shifted to Bombay where he obtained his B.Sc. Degree from the Wilson College. He then joined the Government Law College, but because of the force of the circumstances, after passing the First LL.B. Examination, he left legal studies and for the next seven teachers he worked as a school teacher. Thereafter, he resumed his legal studies, passed his Second LL.B examination in 1938 and commenced practice on the Appellate Side of the Bombay High Court. He had the good fortune of entering the chamber of Shri P.B.Gajendragadkar,( as he then was ) and that became a turning point in his career. Shri V.S.Desai proved to be an able and worthy junior of an able and worthy, in deed a great advocate. From 1944 onwards, Shri V.S.Desai built up a very lucrative practice. He was also selected as a Part Time Professor of Law in the Government Law College, Bombay and in 1948-49 I had the good fortune to be one of his students.

In 1952, V.S.Desai was appointed as Assistant Government Pleader on the Appellate Side. This was followed by his appointment as the Government Pleader in 1947. He was elevated to the Bench very shortly thereafter and this came about in 1958. Shri V.S.Desai brought to bear to the High Office of the Judge of the High Court sound knowledge of law and ever smiling face and the most uncommon of qualities viz. Sound common sense. The eleven years and more, he adorned the Bench of the Bombay High Court. I had the good fortune to be at the Bar when Shri V.S.Desai was a Judge and remembered the uniform, courtesy and kindness shown by him to all seniors and juniors of the Bar. No member of the Bar ever failed any tension in his Court.

Initially Shri V.S.Desai sat on the Appellate Side and dealt with intricate problems of Hindu Law and land tenure which were the problems arising in civil litigation on that side at that time. With his vast experience as Government Pleader, he also attains great success in revolving the intricacies of complicated crimes committed by clever crooks who committed greusome murders or cheated the country or institutions of large amounts. On the Bench, Shri Desai never lost his sense of humour. With his sharp memory and sound common sense, he never lost control of the proceedings or permitted them to drag on beyond reason.

All this stood him in good stead when he was made part of the Bench on the Original Side concerned with expanding the intricacies of fiscal statutes wherein he successfully carried on the brilliant tradition established by the Chief Justice Chagla and Justice Tendolkar.

It has been said that he was a safe and predictable Judge. I am amongst those who prefer the pedestrian virtue of a stable court rather than flashes of brilliance. It is a duty to explain and apply the provisions of law without fear or favour and unmoved by the status of the litigant or the seniority of the lawyer appearing before him. This is what Shri V.S.Desai did in a very able manner. Whether it was a Government Pleader or a raw Junior appearing before him made no difference. He was equally unmoved whether the litigant before him was a big industrialist or the Government. All were equal in his eyes and the only instance when perhaps he abandoned the very desirable standard of judicial aloofness and descended into the arena was when it was necessary to do so to help a poor widow or a lowly agriculturist and that also when it was possible to do so without straining the law or subverting well settled principles thereof.

Apart from being a great Judge, Shri V.S.Desai was a good man who enjoyed the life. He was fond of good things of life-good food, good drink, good dress. He played cards and went to the races. He did not belong to moral brigade which considers some of these things as instrumentalities of the devil.

After his retirement he settled down in Delhi where he practised before the Supreme Court. Once again he built up an extensive practice. He was in active practice until about two years ago. His life was a rich life and a good one. Although Shri V.S.Desai may not be any more with us, his memory survives and it will be a source of inspiration to the coming generations at the Bar and the Bench.

**SPEECH BY MR.S.G.PAGE, GOVERNMENT PLEADER :**

It is with deep sorrow that I associate myself on behalf of Advocate General and myself with all that has been said on this occasion by My Lord, the Acting Chief Justice. The passing away of Mr.Justice V.S.Desai has ended the career of an outstanding lawyer in the Supreme Court of India and an ever remembered Judge of this Hon'ble Court. Mr.Justice Desai though was born in village Vetora in a middle class family which is in born qualities and industry adorned most successfully the Office of the Judge of this Hon'ble High Court of Bombay. It is really creditable to late Mr.Justice V.S.Desai that he did his law course while in service as Teacher of Mathematics at Union High School, Bombay. Commencing his practice in the Bombay High Court in the year 1938, as a Junior in the Chamber of Mr.Gajendragadkar, as he then was, he built up a large and lucrative practice. In the year 1952, he was first appointed as Assistant Government Pleader and in the year 1957, he took over as Government Pleader. On June 9, 1958 Mr.Justice Desai was elevated to the Bench of High Court of Bombay from which he retired on August 8, 1969. Mr.Justice Desai as a Judge of a High Court and a senior Advocate of the Supreme Court has made a great contribution to the branch of Income Tax, though he was not practising in the Income Tax side before elevation as a Judge. Mr.Justice Desai's elevation to the Bench in 1958 was universally acclaimed and his judicial work for over ten years has given full satisfaction to the entire Bar. Mr.Justice Desai earned full respect with his soundness in law, deep understanding of human nature, great industry, unfailing courtesy to all and sympathy to the junior members of the Bar. I learnt that while he elevated to the Bench on June 9, 1958, the then Advocate General

Mr.H.M.Seervai welcomed him on behalf of the Bar by quoting the four attributes of a sound Judge as laid down by Socrataes that is to hear courteously, to answer wisely, to consider soberly and to decide impartially. While he retired on August 8, 1969, Mr.M.A.Rane as President of the Advocates' Association of Western India bid a farewell to him by stating that during his distinguished career as a Judge Mr.Justice Desai fully vindicated socraties. No member of the Bar, whether Junior or Senior ever felt any tension in the Court of Mr.Desai because of the uniform courtesy and kindness shown by him to one and all. Mr.Justice Desai possessed sound common sense with which he dealt with every problem in the Court. It is always said in the Bar that there was rarely a counsel or litigant who left the Court of Mr.Justice Desai without complete satisfaction. Mr.Justice was loved, respected and appreciated uniformly, both, by the Appellate Side and Original Side of the Bar. Late

Mr.Justice Desai, after rendering 11 long years' service as great judge of this Hon'ble High Court, shifted to Delhi in 1969 and spent 19 years of active practice in the Supreme Court of India. In his death, we have lost a "Maharshi" and we will rarely see the like of him again. I, on behalf of the Advocate General and myself join Your Lordship in paying tributes to the memory of one who served the profession and adorned this Court so long and so well.

**SPEECH BY SHRI K.S.COOPER, PRESIDENT, BOMBAY BAR ASSOCIATION :**

My Lord, the Acting Chief Justice, My Lord Justice Couto, Member of the Bar :

On behalf of the Bombay Bar Association, I associate myself whole-heartedly with the sentiments expressed by My Lord the Acting Chief Justice and by the Government Pleader, which sentiments Mr.Justice Desai richly deserved. We have gathered here today to mourn the passing away of this great Judge who adorned the Bench of this Hon'ble High Court for eleven long years from 1958 to 1969. During those years, he earned a popularity with almost every section which has seldom been equaled and perhaps never been surpassed. He was universally liked and respected by the Bar which praactised before him, the litigants whose causes, he decided and his brother Judges. He had the great virtues of being able to listen patiently and courteously, to go to the heart of the matter quickly and to bring to bear upon every case sound legal principles and equally sounds common sense and to decide firmly without fear or favour. In this court, there was no unnecessary heat, and there was no tension for the parties and advocates appearing in. He created an atmosphere of calm reason in the court room.

He had built up a first class equipment in the course of his practice, both as a private advocate and subsequently as Government Pleader and his ability to get a complete grip over every case was demonstrated to the hilt when he had to deal with income tax references where he continued to uphold the great traditions of the Bombay Tax Bench and handed down by the Chief Justice Chagle and Mr.Justice Tendolkar.

After his retirement from the Bench in 1969, he practised in the Supreme Court and I had a few occasions to appear against him in that Court. He was the sole of courtesy to the other members of the Bar and was the fairest of opponents. He prepared his case with industry, presented it with precision and dignity, never indulged in meaningless rhetoric and never overpitched his case. A respected in the Supreme Court, he retired only last year in April 1988 and was inactive practised still then, right upto the age of 81 years, and though he had become physically feeble, his mental faculties were totally unimpaired. He has died in fullness of years and achievements. He did not seek the limelight but instead believed in doing his duties quietly, efficiently, without fanfare and flamboyance. Those who knew him well, not easily forgot him.

May his soul mingle with the Eternal in ever lasting peace.

**SPEECH BY MR.G.R.REGE, PRESIDENT, WESTERN INDIA ADVOCATES' ASSOCIATION**

My Lords,

It is with heavy heart and profound grief that I associate myself with what is said by My Lord, the Acting Chief Justice and other who spoke here before.

He who loves people is loved by God. Mr.Justice V.S.Desai is no more with us.

Mr.Justice Desai came from a lower middle class family and took his early education at Vengurla and then in Wilson College, Bombay. As a student he was a scholar in Mathematics and loved teaching. In fact, for some time he worked as a Teacher in Girgaum School. Lost to the teaching profession was a gain to our profession.

In the early days of his practice, he had very difficult days, but with continued perseverance he established himself as a Lawyer of great caliber. Till his last, unhesitatingly and with gratitude he referred to the names of his seniors and Judges who helped and shaped him in his early days.

As an advocate, Mr.Justice Desai had many cases at his credit. He argued Election Petition of then Chief Minister Mr.Yashwantrao Chavan before the Chief Justice Chagla and earned a grand success. As a Judge, he was a complete Judge. His behaviour as a Judge was exemplary. His treatment to the Bar was ideal. With Juniors, he behaved like a father. In the Court, he loved dialogues. Never curtailed arguments and did not stopped until he was satisfied that the Advocates argued before him were satisfied of the order he passed. Every advocate came out of his Court with full satisfaction. He had keen sense of humour, and it

was enjoyable to be in his Court, when he took order matter board on Appellate Side. Himself a sportsman, Justice Desai loved all games, tennis golf, bridge.

True to his spirits, he behaved like a sportsman in the Court. In discharge of his duties as a Judge, he was so conscientious that in almost year and half year as a Judge, he remained only on two days. Once when his maternal uncle died and again he was so badly affected by fever that he could not get out of the bed.

After the retirement from this court, Mr. Justice Desai joined the Supreme Court Bar and enjoyed great respect from the Bench and the Bar alike. He was very happy to know that our Association was celebrating his 125 years and had promised me all help that I needed.

On the day, when Mr. Justice V.S. Desai laid down his Office our Association had invited him for a farewell dinner. He preferred to meet the members in the Bar Room

where he said he would meet all juniors and seniors then to meet selected at the dinner. When he rose to speak, he was so emotional that he could not speak. He only said "Parting is always sad but it has to come one day". Today Mr. Justice Desai has permanently parted from us. The near and dear ones of Mr. Justice Desai will be consoled to know that we remember him as one of the Judges to whom the entire legal profession and judiciary will always considered to be the shining example.

On behalf Advocates' Association of Western India, I offer my last respect to Mr. Justice V.S. Desai.

May his soul rest in piece forever.

**SPEECH BY SHRI D.D.DAMODAR, PRESIDENT, INCORPORATED LAW SOCIETY**

My Lord, the Acting Chief Justice, My Lord Mr.Justice Couto, the Ld.Gouvernement Pleader and my colleagues at the Bar :

I wholeheartedly associate myself with the sentiments expressed by My Lord, the Acting Chief Justice, the Ld.Government Pleader and my colleagues at Bar on the death of Mr.Justice V.S.Desai. Mr.Desai, during his tenure as a Judge of this Court, was known for his deep understanding of law and the manner in which he discharged his duties as a Judge. After his retirement as a Judge of this Court, he practised in the Supreme Court and although he had never practised taxation laws prior to become a Judge of this Hon'ble Court, after his retirement, he had a mass a large tax practice in the Supreme Court.

In his death, we have lost a sound lawyer and ideal judge and a perfect gentlemen.

On behalf of the Bombay Incorporated Society, I desire to convey my sincere condolences to the member of his bereaved family.

May his soul rest in peace.