

**ADDRESS BY HON'BLE SHRI SWATANTER KUMAR, CHIEF JUSTICE,  
HIGH COURT OF JUDICATURE AT BOMBAY, AT THE FULL COURT  
REFERENCE TO LATE SHRI BALKRISHNA NARHAR DESHMUKH,  
FORMER CHIEF JUSTICE OF THE BOMBAY HIGH COURT, HELD ON  
TUESDAY, 25TH MARCH, 2008.**

My esteemed colleagues, Mr. Kadam, Advocate General of Maharashtra, Mr. Raghuwanshi, Additional Solicitor General, Mr. Rajiv Patil on behalf of Bar Council of Maharashtra & Goa, Mr. Rafiq Dada, President of Bombay Bar Association, Mr. Thorat, President of Advocates' Association of Western India, Mr. Zaiwala, Vice-President, Bombay Incorporated Law Society, learned Members of the Bar, distinguished Ladies and Gentlemen,

We have assembled here this morning to mourn the sad demise of late Shri Balkrishna Narhar Deshmukh, former Chief Justice of the Bombay High Court, who left for his heavenly abode on 24<sup>th</sup> January, 2008 at the age of 90 years.

Shri Deshmukh was born on 19<sup>th</sup> November, 1918 in Ahmednagar. After taking education in Fergusson College and ILS Law College at Pune, he was enrolled as Advocate of the Bombay High Court on 5<sup>th</sup> August, 1941. He had started practice under the guidance of his father who was a well known distinguished senior lawyer at Ahmednagar. He had conducted civil criminal, original and appellate side works at Ahmednagar.

In October, 1957, Shri Deshmukh was appointed as District and Sessions Judge. He had worked as Assistant Judge, Joint District Judge and also as Judge of City Civil Court, Mumbai, during the period from 1955 to 1964.

In recognition of his qualities and judicial work Shri Deshmukh was elevated as Additional Judge of the Bombay High Court on 7<sup>th</sup> June, 1965 and as permanent Judge on 6<sup>th</sup> June, 1967. Shri Deshmukh was appointed as Chief Justice of the Bombay High Court on 6<sup>th</sup> October, 1978. He was a member of this noble profession who started his practice from the moffusil courts and rose to the highest office of Chief Justice of this Court. This achievement of his life was result of his honest, upright and human approach to various social problems facing administration of justice system in the State. He was Chief Justice of this Court from 1978 to 1980.

While discharging the constitutional duties and functions of a Judge and as Chief Justice of the High Court, he had acquired the reputation of his own. Shri Deshmukh had intimate knowledge of working of the judicial system from the subordinate court to the High Court. Shri Deshmukh was fearless and outspoken Judge. But he was also known for genial temperament

He had unflinching faith in democracy and rule of law as reflected through his various landmark judgments – some of which need mention. In his career as Judge he enunciated legal principles of complex nature in most simplified manner. His exposition and elucidation of legal canons had great ramifications not only on procedural law but even on substantive law. His judgments in the matters arising from the Code of Civil Procedure and even Industrial Disputes Act are noticeable in this regard. I am told that in seventies there flood of litigation on account of enactment of Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1975. There was a provision in the Ceiling Act to take into account the land of the owner situated outside Maharashtra for the purpose of computation of ceiling limit. This provision was struck down by the Full Bench headed by Shri Deshmukh as Chief Justice and the judgment was reported in 1980 Mh LJ 888. Another landmark Full Judgment on section 14 of the Hindu Succession Act was reported in 1981 Mh LJ 1. Same is the case with one more Full Bench Judgment as reported in 1981 Mh LJ 511 on the question whether an individual notice under Section 4(1) of the Land Acquisition Act, 1894, read with Rules of the Government was necessary. These judgments show that in depth knowledge of law of interpretation of complex provisions of Succession Act and Ceiling Act. Shri Deshmukh interpreted the provisions of said Acts in a lucid language that even a lay man would understand the decision. One more judgment rendered by Shri Deshmukh on the question of permissibility of review of judgment under Article 226 of the Constitution reported in 1981 Mh LJ 18 deserves mention.

In addition to the in depth study of law he was interested in Music, Drama, Spots and Education. He was voracious reader of Marathi literature.

Shri Desmukh exhibited his concern for the welfare of the legal fraternity. He used the tool of administration of justice effectively and vigorously to render social justice to the people at large.

In the passing away of Shri Deshmukh, the legal fraternity has lost a 'great Judge and guide'. In this hour of grief, on behalf of my colleagues, myself, High Court Registry and all of you assembled here, I convey our heartfelt condolences to the members of the bereaved family. May Almighty give them strength to bear the great loss.

May the departed soul rest in eternal peace.

Speech by Mr. R.B. Raghuvanshi, Additional Solicitor General, at the Full Court Reference to Late Chief Justice Shri B.N. Deshmukh on March 25,2008.

My Lords, the Chief Justice and other Judges of this Court, Mr. Ravi Kadam, Advocate General, Mr. Rajiv Patil, Member, Bar Council of Maharashtra and Goa, Mr.Dada, President, Bombay Bar Association, Mr.Thorat, President, Advocates' Association of Western India, Mr.Dinsoo Zaiwalla, Secretary, Incorporated Law Society and my learned friends.

We have all heard the sentiments expressed by the honorable Chief Justice on the sad demise of Justice Mr B.N. Deshmukh, I share every sentiments expressed by honorable chief justice and hasten to add a few of my own.

Justice B.N. Deshmukh was born on 19<sup>th</sup> November, 1918 and did his early school education at A.E. Society High School, Ahmednagar. His Lordship completed his college degree from Fergusson College and law degree from Indian Law Society's Law College, Pune.

Justice B.N. Deshmukh enrolled as an Advocate on 5<sup>th</sup> August, 1941 and started his practice at Bombay High Court. His Lordship's practice was from all branches of law including civil, criminal, original and appellate side work. Justice B.N. Deshmukh had an exceptionally varied and distinguished judicial career. His Lordship served as Joint Judge from 1957 to 1958 and was elevated as a District Sessions Judge thereafter. His Lordship reached the peak of his legal career when he was appointed as Additional Judge of the Bombay High Court in 1965 and later on became a permanent Judge on 6<sup>th</sup> June, 1967. His Lordship was appointed as Chief Justice of Bombay High Court on 6<sup>th</sup> October, 1978 and retired on 19<sup>th</sup> November, 1980.

Justice B.N. Deshmukh practiced for several years on both the Original and Appellate Side of the High Court. I am told that after his appointment in the subordinate judiciary, he held the office with ability, dignity and distinction. Justice B.N. Deshmukh made a sound and competent Judge and had a good grasp of facts and knowledge of law. As a Judge, Justice B.N. Deshmukh was independent and possessed high intelligence which enabled him to decide cases quickly.

I am told one peculiar thing which distinguished Justice B.N.

Deshmukh from others was that his judgments were known for its precision and simple style. He dealt with only those points of law and fact which was relevant to the decision.

It is very unfortunate that we have lost such an illustrious and towering personality from amongst us. It is a great loss to the bar and to the legal fraternity. I pray to the almighty to give strength to his family members to bear the loss with strength. May his soul rest in peace.

Speech by Mr. R.M. Kadam, Advocate General, at the Full Court Reference to Late Chief Justice Shri B.N. Deshmukh on March 25,2008.

My Lords, the Chief Justice and other Judges of this Court, Mr.Rajendra Raghuwanshi, Additional Solicitor general of India, Mr. Rajiv Patil, Member, Bar Council of Maharashtra and Goa, Mr.Dada, President, Bombay Bar Association, Mr.Thorat, President, Advocates' Association of Western India, Mr.Dinsoo Zaiwalla, Secretary, Incorporated Law Society and my learned friends.

1. Today we mourn the passing away of Justice B.N. Deshmukh, a former Chief Justice of this Hon'ble Court who passed away at Pune on January 24, 2008.

2. Justice B.N. Deshmukh hailed from a distinguished family of lawyers. His father was a leading lawyer of his time in the District Court in Ahmednagar. After completing his education from the Fergusson College and ILS Law College, in Poona, Justice Deshmukh joined the bar in 1941 under the able guidance of his father. In a short span of time, he proved his mettle in the bar and came to be recognized as an industrious and meticulous lawyer. His practice included both civil and criminal litigation. After 14 years at the bar he was appointed as Assistant Judge in the District Court in 12-4-1955. Over the years Justice Deshmukh won the admiration of the bar for his tireless service to the system of administration of justice. Subsequently he became a District and Sessions Judge and in November 1960 a Judge of the City Civil Court at Mumbai. Five years later Justice Deshmukh was elevated to the Bench of this Hon'ble Court as an Additional Judge, and became permanent Judge on June 6, 1967.

3. Justice Deshmukh soon made his mark as a Judge of this Hon'ble Court. He was known for his acumen, knowledge of law and his efficiency. Justice Deshmukh became Chief Justice on 6-10-1978 which office he adorned with grace and distinction for 2 years. After retirement, he dedicated himself to the field of education.

4. I did not have the privilege of appearing in his Court. However, his contribution to the development of law was significant as can be seen from the large number of reported judgments delivered by him. Though Justice Deshmukh has passed away, the Bar will always remember him through his judgments for all time to come.

My Lords, on behalf of the entire Bar of the State of Maharashtra, I join your Lordships in offering my condolences to the bereaved family.

May his soul rest in peace.

Speech by Mr. Rajiv Patil, Member, Bar Council of Maharashtra and Goa, at the Full Court Reference to Late Chief Justice Shri B.N. Deshmukh on March 25,2008.

Honourable the Chief Justice Mr.Swatanter Kumar and other Honourable Judges of the Bombay High Court,Honourable Additional Solicitor General of India Mr.Rajendra Raghuvanshi, Honourable Advocate General Mr.Ravi Kadam, Honourable Mr.Rafique Dada, President of Bombay Bar Association, Honourable Mr.Shankarrao Thorat, President Advocates Association of Western India, Honourable Vice President Mr.Zaiwala, Incorporated Law Society, Family Members of late Mr. Justice B.N. Deshmukh, Ladies and Gentlemen;

Late Mr.Balkrishna Narhar Deshmukh former Chief Justice of this High Court left us for heavenly abode on 24-1-2008.

Born on 19th November 1918at Ahmednagar Justice Deshmukh completed his school education in Municipal School and High Court at Ahmednagar. He graduated from Fergusson College, Pune and completed his Law Graduation from renowned I.L.S.Law College at Pune.

He was enrolled as an Advocate by Bombay High Court on 5<sup>th</sup> August, 1941 and he embarked upon his career in legal fraternity at Ahmednagar court under the guidance of his father Rao Bahaddur Narhar Deshmukh, a distinguished senior Advocate in Ahmednagar. Some of his old acquaintances from Ahmednagar say that his father was of a wish that Justice Deshmukh should enter Judicial Service in his early days and therefore he worked as Civil Judge, Junior Division for some time however again returned to law practice. But the records to that effect were not available.

After having practiced in Ahmednagar for 13 years he joined Judicial Service as Assistant Judge on 12th April 1955. Because of his hard work and judicious approach he was soon promoted as a District and Sessions Judge in the year 1957. He also worked as Judge of City Civil Court at Bombay for some time.

The Great Judge was appointed as Additional Judge of Bombay High Court on 7<sup>th</sup> June 1965 and his appointment was confirmed on 6<sup>th</sup> June 1967. Justice Deshmukh had a longest career of 36 years as Judicial Officer from 1955 to 1980.

He took his oath as Chief Justice of this Honourable High Court on 6<sup>th</sup> October 1978 and he retired as Chief Justice on 19<sup>th</sup> November 1980.

While he was Judge, he was known to be most humble person with humane approach. As a Judge late Justice Deshmukh had a reputation as a

fearless and outspoken Judge with unflinching faith in Democracy and Rule of Law. While he was a Judge he delivered many important Judgments which are part of Chronicles of this High Court. One of such case was Sundar Navalkar v/s State, where Senior Advocate K.K.Singhvi and Senior Advocate C.R.Dalvi had great legal debate before late Justice Deshmukh along with late Justice N.D.Kamat on the prosecution for offense of Sedition. Another judgment is striking down the Rule of prohibiting Judges from practicing law after retirement.

Late Mr.Deshmukh is another Judge who started Judicial Career from basic rank of judiciary to the post of Chief Justice of this High Court. He was one of the privileged few who had the opportunity to imbibe justice into the roots of the subordinate level o Judiciary and needless to mention that he in a successful manner performed the task and also laid milestones for his successors.

Apart from his legal and judicial career late Justice Deshmukh had great interest in dramatics and music. He was closely associated with S.P.College, Pune, ILS Law College as well as he took keen interest in development of legal education in various institutions. After retirement he settled himself in Pune city and gave his maximum time for legal education.

Because of his said demise, the Bench and the Bar have lost a great legal luminary.

On behalf of Bar Council of Maharashtra and Goa I pay my respect to departed soul and pray that May His Soul Rest In Peace.

Speech by Mr. Rafiq Dada, President of the Bombay Bar Association at the Full Court Reference to Late Chief Justice Shri B.N. Deshmukh on March 25, 2008.

My Lord the Chief Justice, and my Lords Judges of this Honourable Court, the Advocate General of Maharashtra, the Additional Solicitor General of India, Mr. Patil, Member of Bar Council of Maharashtra and Goa, Mr. Thorat, President of Advocates' Association of Western India, Mr. Zaiwala, President of Bombay Incorporated Law Society and my colleagues at the Bar,

On behalf of the Bombay Bar Association, I endorse the sentiments expressed by my Lord the Chief Justice and the speakers before me.

In the death of Mr. Justice B.N. Deshmukh, this Court has lost one of its oldest retired Judges. In his death, one of the chapters in the annals of the Court has come to an end.

Justice Deshmukh answered the call of duty at the young age of 37 years. His first appointment was in 1955 as an Assistant Judge. He rose up the judicial ladder steadily and finally came to this Court in 1965. This was within ten years of his first appointment. This Court was his domain for 15 years.

The Senior lawyers of the City Civil and Sessions Court spoke of Mr. Justice B. N. Deshmukh, as a good Judge. He was a Judge known for his courtesy and clarity of thought. One of the trials conducted before him was the famous FEDCO case where the leading criminal lawyers of the time appeared. His judgment in a very complicated trial was widely appreciated. His order on sentence was confirmed by this Honourable Court and finally the Supreme Court of India.

Mr. Justice B.N. Deshmukh entered this court as a Judge in 1965. He decided many important cases. His judgment on the constitutional validity of the Maharashtra Vacant Lands Act is well known. A classic illustration of his humility occurred when he heard a matter sitting with Mr. Justice S.K. Desai. Two cases on identical issues were listed on the Citizenship Act. After he delivered a judgment in the first judgment, a young advocate argued the next case. The junior Counsel pointed out how the earlier judgement was erroneous as some provisions of the Citizenship Rules on acquisition of a foreign passport had been overlooked. Mr. Justice Deshmukh praised the Junior in open Court and said that since the first judgment was not signed, he would rehear even the first case. This is one of the instances quoted by the old lawyers of this Court. After his retirement Mr. Justice Deshmukh involved himself in the academic world. He worked in a famous Law College in Pune.

Mr. Justice B.N. Deshmukh served the law in many capacities, as an Advocate, as a Judge and as an academician. He passed into history at the age of

90 years. On behalf of the Bar, I convey my condolence to the members of the bereaved family. May his soul rest in everlasting peace.

Speech by Mr. S.P. Thorat, President, Advocates Association of Western India, at the Full Court Reference to Late Chief Justice Shri B.N. Deshmukh on March 25, 2008..

The Hon. Chief Justice Shri Swatantra Kumar, the other Hon. Judges of this Hon. Court, the Additional Solicitor General Shri Rajendra Raghuvanshi, the Advocate General Shri Ravi Kadam, former Chairman of Bar Council of Maharashtra and Goa Shri Rajiv Patil, all Government Pleaders from Appellate as well as original side. The President of Bombay Bar Association Shri Rafiq Dada, the Vice President of Bombay Law Incorporate Society Shri Shri Zaiwala, family member and all the Advocate friends.

I endorse the views of earlier learned speakers.

Shri Balkrishna Narhar Deshmukh, popularly known as Justice B.N. Deshmukh, was born and brought up at Ahmednagar, at his home district. After the matriculation in a Municipal School at Ahmednagar, he took graduation in Ferguson College and thereafter at I.L.S. Law College at Pune.

On 5<sup>th</sup> May 1941 he was enrolled as an advocate and immediately thereafter he started his practice under the hard discipline and guidance of his father late Shri Raobahaddur Narhar Deshmukh. His father was well known Government pleader and Public Prosecutor in the Court at Ahmednagar.

Immediately, within short period of his practice flourished and almost one side of litigants was with him. Within short span of three years he was appointed as Assistant Judge at Satara Court in Western Maharashtra. However, his wife Mrs. Sharyau Deshmukh who is present here today in this Court Hall did not like that her husband is serving under the British regime. And in fact she did not join him at Satara.

For a short period Justice B.N. Deshmukh was at Satara Court as a Assistant Judge. But he was restless as his conscious did not allow him to keep continue the said service under the British Empire. His wife strongly supported him and ultimately he tendered his resignation within a period of three months immediately after his appointment for on the said prestigious post.

Before independence 6 years, and after independence for a period of 8 years Justice B.N. Deshmukh practiced in both sides of criminal and civil. However again he was asked to join a judiciary by then justice Gajendragadkar who asked him that, now the India became independent and for justice B.N. Deshmukh there is no difficulty to join judiciary. Therefore again on 12-4-1955 he joined as Assistant Judge at Nashik. Thereafter he did not turn back, immediately within short period of two years Justice Deshmukh got promotion as a Joint Judge and thereafter within 8 months he became a District Judge at Pune.

Till 1964 Justice Deshmukh was a District Judge at different places including the Bombay City Civil Court at Bombay. On 6<sup>th</sup> June 1965 Justice Deshmukh was appointed as a Additional Judge at High Court Bombay and thereafter he became the permanent Judge in the High Court. After a period of 11 years, i.e. On 6<sup>th</sup> October 1978 he became the Chief Justice of Bombay High Court. His number of judgments are confirmed by the Supreme Court of India and became the law of land. On 19<sup>th</sup> November 1979 Justice B.N. Deshmukh got retired from the said highest post of Bombay High Court.

After the retirement, the Central Government entrusted responsibility with him and he was appointed as Vigilance Commissioner of the State of Assam where he successfully passed his responsibility. Where it was the task of his office to ascertain the population of Bangala Deshis who illegally entered in the Assam State.

After the retirement Justice Deshmukh settled in the Pune city where he was connected with the number of social organization. Till his last few years he was active and on 4<sup>th</sup> January 008 he expired.

Justice Deshmukh was a man of distinguished judicial carrier he came across number of experiences during his judicial span. When he was acting as a District Judge, on one occasion he had awarded 0 year imprisonment to a lady who had committed a murder of her husband. The husband of the said lady had committed a heinous immoral crime against their own daughter. The unfortunate lady could not able bar said crime of he husband. Consequently in rage of anger she crushed his head by a big cooking stone (pata). Instantly her husband expired. Said lady confessed in the open court that she could not bear the said offense of her husband and she killed him while dictating the judgment. Justice Deshmukh was rather worried, as he was thinking about the said small daughter and was asking the question to his own conscious that who will look after said shelter less and alone child who was hardly years old. In fact, it was the practice of Justice Deshmukh to deliver the judgment immediately after the hearing. But it was the first occasion that there was delay from his part. As he was very restless and upset, he was aware about the fact that the father of girl is killed and mother will go behind the bar and ultimately unfortunate child will be punished as she will be isolated girl and nobody will look after her. Ultimately he called the office bearers of one renown social organization and entrusted the responsibility of the said small girl with them. The said organization readily accepted the responsibility to maintain and educate the said girl and when Justice B.N. Deshmukh found that the said girl is in proper custody of a proper guardianship he sent the said lady in jail by passing the judgment and order. He did not forget to gel the mother of child about the said arrangement.

I came to know one more incident from Mrs.Deshmukh, wife of

Justice Deshmukh – one accused namely Nandu Hari Valke from Pune District he was hanged to death in a multiple murder case by Justice B.N. Deshmukh after final decision in appeal and the execution of the said punishment, the said accused expressed his wish that he wanted to right a letter to Justice Deshmukh and in fact e wrote a letter. He stated in his letter that, I am sorry, I know that I have committed very cruel crime, however I admit that your honour has given proper and appropriate justice and I accept it I pray God to bless you and your family members.

Today Justice B.N. Deshmukh is not with us but the principle laid down by him will always remain forever, to guide us. On behalf of A.A.W.I. I pray that let the God keep his soul in peace and give further strengths to his family members.

Speech by Mr. Dinsoo Zaiwalla, President of Bombay Incorporated Law Society, at the Full Court Reference to Late Chief Justice Shri B.N. Deshmukh on March 25,2008..

The Hon'ble the Chief Justice Mr.Swatanter Kumar, The Hon'ble Judges of the Bombay High Court, Mr. Ravi Kadam, the Learned Advocate General, Mr. Thorat, The President of the Western India Advocates Association, Mr. Rajiv Patil, Member, Bar Council of Maharashtra and Goa, Mr. Rafiq Dada, President of the Bombay Bar Association, Members of the family of Justice B.N. Deshmukh,My colleagues of the Bar.

On behalf of the Incorporated Law Society and fraternity of Solicitors it has fallen on me to convey our members grief on the said demise of Justice B.N. Deshmukh who presided as the Chief Justice of this Court and who departed from this mortal World on 24<sup>th</sup> January 2008.

With respect I concur with the sentiments so eloquently expressed by the learned Chief Justice, by the Advocate General by the Additional Solicitor General, President of the Bar Association and the President of the Western India Bar Association which has been submitted to your Lordship's Bar today and would only bear repetition if I were to repeat the same.

Justice Deshmukh starting his educational career from the Municipal School in Ahmednagar rose to be the Chief Justice of this great Institution. He was appointed as a Permanent Judge on 6<sup>th</sup> June 1967 and as the Chief Justice of this Court on 6<sup>th</sup> October 1978.

When I joined the profession as a young lawyer I remember Justice Deshmukh as a soft spoken and courteous Judge who did not instill the slightest fear to the Junior most member of the Bar.

Even as we today stand in silence which is more profound in its eloquence than any words may I be permitted to express our sentiments to the members of the family of Justice Deshmukh by way of solace by quoting what our ancient Rishi said. I quote :

**“We are all subject to tyranny of time living out the allotted span given to each of us by that Superior Power which men called God.”**

For ourselves we know not even if we shall breathe out the very breath we now breathe in.

Justice Deshmukh has proceeded on his further journey after so successfully completing his time and may the great force that governs all of us give courage to the members of Justice Deshmukh's family to bear his absence.

May His Soul rest in eternal peace.