

ADDRESS BY HON'BLE SHRI JUSTICE MOHIT S. SHAH, CHIEF JUSTICE, HIGH COURT OF JUDICATURE AT BOMBAY AT THE FIRST COURT REFERENCE TO LATE SHRI JUSTICE B.M. SAPRE, FORMER JUDGE OF THIS HIGH COURT, ON WEDNESDAY, 26th JUNE 2013.

Mr. D.J. Khambata, Advocate General

Mr. Kevic Setalvad, Additional Solicitor General of India

Mr. Dara Zaiwala, Vice President, Bombay Bar Association

Mr. Rajiv Chavan, President,
Advocates' Association of Western India

Mr. Rajan Jayakar, Managing Committee Member,
Bombay Incorporated Law Society

Mr. Anil Singh, Member, Bar Council of Maharashtra & Goa

Senior Advocates

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 Bhaskar Mukund Sapre, former Judge of this Court, who left for his heavenly abode on 24th May 2013 at Pune at the age of 97 years.

Justice Sapre was born on 14th June 1916. He had his earlier education in Government High School, Raipur, Madhya Pradesh and graduated from Robertson College, Jabalpur, Madhya Pradesh. He obtained his Degree in Law from University College of Law, Nagpur, Maharashtra.

Justice Sapre was appointed as Civil Judge in the former Madhya Pradesh State on 16th June 1947, Additional District Judge on 4th September 1954, Additional District & Sessions Judge on 8th May 1956 and District & Sessions Judge on 21st November 1960. He was appointed as Joint Charity Commissioner on 13th November 1967 and as Judge of the City Civil & Sessions Court, Bombay on 10th December 1969. He was appointed as Registrar of this Court on 26th November 1970. Justice Sapre was elevated as an additional Judge of this Court on 14th December 1972 and was made permanent Judge on 7th August 1974. He retired on 14th June 1978.

Throughout his judicial career, Justice Sapre displayed qualities of a good judge. He was patient, courteous and fair. Justice Sapre, a very gentle and affectionate person, always maintained cordial relations with his colleagues and members of the Bar. He will be remembered as kind-hearted Judge. He was a source of encouragement and inspiration to the younger members of the Bar appearing before him.

While sitting at the Bench, Justice Sapre delivered a number of important judgments including under the Bombay Rent Act, Presidency Small Cause Courts Act, Central Excise & Salt Act, Indian Penal Code, Defence of India Rules, 1971 and Prevention of Food Adulteration Act.

After his retirement, Justice Sapre worked as a Director of Symbiosis Law Institute, Pune.

Even after retirement, Justice Sapre lived an active and happy life. He was fond of classical music and was attending classical music concerts. He was also interested in sports, mainly tennis, and was playing tennis regularly for many years after retirement.

Justice Sapre's death has left a grave silence and emptiness in our lives. His passing will not only leave a void in our lives but also in the hearts of all those who know him. He will always remain within ourselves.

Let us, therefore, pay our respectful homage to the departed soul and pray that his soul may rest in peace.

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 our heartfelt condolences to the members of the bereaved family and in particular to his son Shri Avinash Sapre, who was a Chief Planner at CIDCO, and daughter Mrs. Alka Mahajan. May the Almighty give them strength to bear this great loss.

May his soul rest in eternal peace.

Address by Mr. D.J. Khambata, Advocate General of Maharashtra, at the First Court Reference to Late Justice B.M. Sapre on 26th June, 2013.

My Lord the Hon'ble the Chief Justice Shri Mohit Shah, the Hon'ble Shri Justice M.S. Sanklecha, Shri Kevic Setalvad, Additional Solicitor General of India, Shri Anil Singh on behalf of the Bar Council of Maharashtra and Goa, Shri D.R. Zaiwalla, Vice-President, Bombay Bar Association, Shri Rajiv Chavan, President, Advocates' Association of Western India, Shri Rajan Jayakar on behalf of the Bombay Incorporated Law Society, members of the family of Justice Sapre and members of the Bar,

The strength of an institution like the Bombay High Court lies in the continuity of its traditions and the honouring of all those who have striven to make it the great Temple of Justice that it is. It is hence that we gather here today to mourn the death of Justice B.M. Sapre, former Judge of this Court, at the grand old age of 97.

From Civil Judge, Class II in the erstwhile State of Madhya Pradesh he rose steadily through the judicial hierarchy to the office of Registrar of this Court, that traditional springboard to Judgeship. He was elevated to this Court as a Judge in 1972.

He was a Judge in a different and some would say, better era. A world gone by and in which most of us have played no part. Memory of him must therefore be gathered from the hearts and minds of those who had appeared before him and from that great repository of judicial life and experience – the Law Reports.

Justice Sapre is remembered as a courteous and kindly Judge by those who appeared before him. His judgments display a careful scrutiny of the law and a readiness to decide a case on first principles and common sense.

In Kishan Pandurang v Baldev Singh 1977 MhLJ 656, interpreting Section 31 of the Motor Vehicles Act, he held that the provisions of the Motor Vehicles Act did not deal with the transfer of ownership of a vehicle. A motor vehicle being movable property its transfer was, he held, governed by the Sale of Goods Act. Hence he held that the transfer of ownership of a vehicle took place from the date of its sale and not from the date on which the transferee was recorded in the certificate of registration.

In State of Maharashtra v. Vilas Shate he carefully analysed the provisions of the Prevention of Food Adulteration Act 1954 and the Rules thereunder. The case concerned whether Dhana Dal was a fruit product, a savoury or a spice. Artfully balancing the competing contentions and scrutinizing the common parlance and practice including the manner of its consumption he held that Dhana Dal was none of these. The judgment also contains a careful study of the role of the Public Analyst under the Rules.

In Chandulal Vasudeo Vaidya v Nasik Municipal Corporation 1976 MhLJ 308, he was called upon to decide questions of the consequences on occupants of a plot of a change of reservation and zone arising from publication of a Town Planning Scheme.

In General Manager Central Railway & Anr v Jankoo Vithal & Anr (1977) 1 LLJ 235 Bom, Justice Sapre interpreted the scope of Section 33C(2) of the Industrial Disputes Act, 1947.

He was also a part of the Bench with Justice Vaidya, which delivered a leading judgment on the law of medical negligence.

The Law Reports are testimony to the varied fields of law to which he added by his judgments.

Justice Sapre was a loyal soldier to the cause of justice. It is not only the stars but also silent but determined individuals like him who make up the fabric of our great judiciary, its traditions and its foundations. We are grateful for his contribution and pay tribute to him.

We now pray that his soul finds eternal peace.

I extend the condolences of the Bar to the bereaved family of Justice Sapre.

Address by Mr. Kevic Setalvad, Additional Solicitor General of India, at the First Court Reference to Late Justice B.M. Sapre on 26th June, 2013.

My Lord, the Chief Justice, Mr. Justice Sanklecha, Mr. Darius Khambata – the Hon'ble Advocate General of Maharashtra; Mr. D.R. Zaiwalla – the Vice-President of the Bombay Bar Association; Mr. Anil Singh on behalf of the Bar Council of Maharashtra and Goa; Mr. Rajiv Chavan – the President of the Advocates' Association of Western India, Mr. Rajan Jayakar on behalf of the Bombay Incorporated Law Society and the members of the Bar.

We have assembled here this morning to honour the memory of Late Hon'ble Shri Justice B.M. Sapre, a Former Judge of the Bombay High Court who left for his heavenly abode on 24th May 2013.

During the period 1974 to 1978, when His Lordship Justice Sapre served as a Judge at the Bombay High Court he delivered several important judgments, each of which bore his stamp of clarity and conciseness.

The judgments that Justice Sapre was party to included, **Dattaram Deoji Patil Vs Raghunath Shankar Badve (1975 UCR Bom 109)**, in which the main question for consideration was whether the Siddhi Vinayak Temple at Old Prabhadevi was a private or a public temple and a public trust under the Bombay Public Trust Act. In the course of his judgment, Justice Sapre observed that although at one time the Siddhi Vinayak Temple was relatively obscure, it now attracts a large number of devotees, especially on special days. Some devotees go to the temple every day, people also wait in long queues for hours together to seek blessings. After tracing the history of the temple from prior to the year 1870, and after analysing in detail the evidence on-record, as also the large amount of case law cited at the Bar, it was held by Justice Sapre, on behalf of the Division Bench of this Hon'ble Court that- there was ample evidence of the implied dedication of the temple to the public. It was

concluded that the temple was not a private temple, but was a public temple, and a public trust under the Bombay Public Trusts Act 1950.

In Baban Madhav Dagadu Dange Vs Parvatibai Dagadu Dange [1978 (2) MhLR 365] the question was whether the expression “mother” used in Section 125(1)(d) of the Code of Criminal Procedure included an adoptive mother. The lady in question in that case had filed the application for monthly allowance by way of maintenance, as the adopted son had neglected and refused to maintain her although on adoption he had secured substantial property of his adoptive family and therefore possessed sufficient means. Relevant provisions of the Code were examined, the expression “father” and “son” were examined under the General Clauses Act and it was held the expression “mother” in Section 125 of the Code included an adoptive mother as well; in the same manner that the term “father” included the adoptive father. Gender equality was thus upheld.

In Jayantilal Kunwarji Vs. State of Maharashtra [1976 UCR (Bom) 304], the question of whether chilly powder would fall under Item no.17 of Rule 22 of the Prevention of Food Adulteration Rules. “spices” arose. Justice Sapre held that chilly powder would not fall under Item No 17 of Rule 22 of Prevention of Food Adulteration Rules, 1955. This judgment was relied upon in State of Maharashtra V/s A. Mamoo [1978 CriLJ 1166] wherein it was held that chilly powder is not a spice but falls under Item no.23 “food not specified”.

In Phillips India Ltd Vs. Kunju Punnu [1975 ACJ 311] raised an important question of liability of a medical consultant of a company. There was no evidence found to show competency in the diagnosis and treatment of the patient. It was held that a person shall not be liable for breach of professional duty, if there is absence of proof of negligence.

In **Jasmine Mills Vs A.V. Venkateshwaran and Ors. [1977 (79) BOMLR 438]**, Justice Sapre decided a case under the provisions of the Central Excise Act and the Rules framed thereunder. The petitioners in that case had challenged the legality of two demand notices for payment of Excise Duty made respectively under Rule 10A and Rule 9 of the Central Excise Rules, 1944 and order for payment in pursuance of the said notices. A similar question was dealt with by the Supreme Court in **Orient Paper Mills V Union of India [1969 AIR SC 61]** where it was held that the collector is an appellate authority and therefore power exercised by the collector is quasi judicial.

Clearly, during the course of a period of only 4 years as a judge, Justice Sapre delivered judgments on several matters and in various different fields of law. We at the Bar shall also miss him.

On behalf of my learned Colleagues at the Bar, and all of us assembled here, I offer our condolences to his family.

May his Soul rest in peace.

Address by Mr. Anil C. Singh, Senior Advocate and Member, Bar Council of Maharashtra and Goa, at the First Court Reference to Late Justice B.M. Sapre on 26th June, 2013

Hon'ble the Chief Justice Shri Mohit S. Shah, Advocate General of Maharashtra Shri Darius J. Khambata, Additional Solicitor General of India Shri Kevic Setalvad, Vice-President of Bombay Bar Association Shri Dara R. Zaiwalla, President of Advocates Association of Western India Shri Rajiv Chavan, Managing Committee Member of the Bombay Incorporated Law Society Shri Rajan Jayakar, Members of Bar, Ladies and Gentlemen.

We have gathered here to offer our condolences and pay tributes to late Shri Justice Bhaskar Mukund Sapre.

With respect, I share the sentiments already expressed by my Lord the Chief Justice and learned speakers before me.

Justice Bhaskar Mukund Sapre who became Civil Judge in 1947 in erstwhile Madhya Pradesh rose to become Judge of our High Court in 1972 and retired in 1978.

Even after his retirement Justice Sapre continued to actively serve the State and the Bar. He left a positive mark and has left a great legacy in this Court. Those who knew him tell us that he enjoyed the respect of all and was known not just as a great Judge but a even greater human being.

Justice Sapre died at the ripe old age of 96. On behalf of Bar Council of Maharashtra and Goa, I offer my condolences to the family of Justice Sapre.

May his soul rest in eternal peace.

Address by Mr. Dara R. Zaiwalla, Vice-President of Bombay Bar Association at the First Court Reference to Late Justice B.M. Sapre on 26th June, 2013

My Lord the Chief Justice, Mr. Justice Sanklecha, Advocate General and other respected Members and the Officers of various Associations;

On behalf of the Bombay Bar Association, I join the sentiments expressed by My Lord the Chief Justice and the previous speakers. Justice Sapre's career has been amply stated by the Chief Justice and the Advocate General and I do not want to repeat the same. I had the pleasure and privilege of appearing before him when he was a Judge of the City Civil Court. He mainly sat on the Appellate Side. When he became the Judge of the High Court, I did not have the occasion to appear before him. He was very patient and polite Judge. He treated all the Members of the Bar equally, whether junior or senior. On behalf of the Bombay Bar Association I join in the sentiments expressed by the Chief Justice and the previous speakers and I offer my condolences to the members of the family of late Justice Sapre. May his soul rest in eternal peace.

Address by Mr. Rajiv Chavan, President of Advocates' Association of Western India, at the First Court Reference to Late Justice B.M. Sapre on 26th June, 2013

My Lord the Chief Justice, My Lord Justice M.S. Sanklecha, Shri D.J. Khambata, Learned Advocate General, Shri Kevic Setalvad, Learned Additional Solicitor General of India, Shri Anil Singh representing the Bar Council of Maharashtra and Goa, Shri D.R. Zaiwalla, Vice-President, Bombay Bar Association, Shri Rajan Jayakar, Managing Committee Member of the Bombay Incorporated Law Society and Members of the Bar.

We have assembled here this morning to mourn the sad demise of Mr. Justice Bhaskar Mukund Sapre who left for his heavenly abode, at the age of 97, on 24th May 2013 at Pune. Justice Sapre, who hailed from Sagar District of erstwhile State of Central Provinces & Berar of British India, rose from Civil Judge Class II in that erstwhile State to be the Judge of this High Court.

Unfortunately I did not have any occasion to appear before him. But my senior colleagues at the Bar told me that he was very courteous and a Judge who listened to the advocates patiently. A colleague of Justice Sapre who was also the Judge of this High Court told me that he belonged to a family who were followers of what we call in Maharashtra- Common Man's God: Lord Vitthal. Justice Sapre used to religiously visit Pandharpur when he was posted as Sessions Judge at Solapur. Being a ardent devotee of Lord Vitthal, he used to perform Mahapooja with utmost devotion. During one such Mahapooja he disclosed to his colleague that in Sagar District his native place was situated on the banks of a river also called as Chandrabhaga with a temple of Lord Shri Vitthal. Justice Sapre's family had the honour of being priests of the said deity. That gave the clue of his unstinted devotion towards Lord Shri Vithoba of Pandharpur. Justice Sapre discharged his duties of his judicial office with the same devotion. In fact that was his strength.

My Lord on behalf of Advocates Association of Western India, I fully associate with the sentiments that have been expressed here by Your Lordship as well as my colleagues at the Bar and I pay humble respects on behalf of the Association to the departed soul and offer our condolences to the bereaved family.

Address by Mr. Rajan Jayakar, Managing Committee Member of Bombay Incorporated Law Society, at the First Court Reference to Late Justice B.M. Sapre on 26th June, 2013.

My Lord the Chief Justice, Mr. Justice Sanklecha, Advocate General Mr. Darius Khambatta, Additional Solicitor General Mr. Kevic Setalvad, Vice President of Bombay Bar Association Mr. Dara Zariwalla, President of Bar Council of Maharashtra & Goa Mr. Anil Singh, President of Advocate Association of Western India, Mr. Rajiv Chavan and all those who have gathered today on behalf of Bombay Incorporated Law Society.

I join in the sentiments expressed by the Hon'ble the Chief Justice and all other previous speakers. Justice Sapre was a very quiet and patient Judge and encouraged juniors to argue the matter. After I had barely started practice Justice Sapre was elevated to the Bench and it is my personal experience that he encouraged me to argue the matter in the absence of Senior Counsel, who was leading me. When His Lordship realized that he was likely to hold against me, he kept the matter back and asked my Senior to come to Court and address His Lordship. Justice Sapre had delivered some landmark judgments on Employees State Insurance Act.

I pray that the almighty gives sufficient strength to the bereaved members of his family and that his soul may rest in eternal peace.
