

ADDRESS BY HON'BLE SHRI JUSTICE MOHIT S. SHAH, CHIEF JUSTICE,
HIGH COURT OF JUDICATURE AT BOMBAY AT THE FULL COURT
REFERENCE TO LATE DR. JUSTICE BHAGWATI PRASAD SARAF, FORMER
JUDGE OF THIS HIGH COURT, ON WEDNESDAY, 18 JULY 2012 AT
11 A.M.

My esteemed colleagues

Mr Khambatta, Advocate General

Mr. Setalavad, Additional Solicitor General of India

Shri Konde-deshmukh, Chairman of the Bar Council

Shri Rohit Kapadia, President of Bombay Bar Association

Shri Rajiv Patil, President of Advocates' Association of Western India

Shri Dinsoo Zaiwalla, President, Incorporated Law Society

Members of the bereaved family,

Ladies and Gentlemen,

1. We have assembled here this morning to mourn the untimely sad demise of late Dr. Justice Bhagwati Prasad Saraf, former Chief Justice of Jammu & Kashmir High Court and a former Judge of this Court, who left for his heavenly abode on Tuesday 15 May 2012 at the age of 73 years, while on a holiday with his family in Tanzania
2. Dr. Saraf was born on 23 August 1939. He came up the very hard way. Studying his textbooks in the midst of negotiating with customers in his father's small cloth shop, he was always topper and gold medalist in the University. Dr. Saraf had a brilliant academic career, he secured first class first position in B. Com and M. Com from the Gauhati University and also stood first in LLB examination. He was awarded doctorate degree for his thesis "Capital Taxation in India". He served as lecturer in Taxation and labour laws in Gauhati University from 1963 to 1968.
3. Dr. Saraf joined the Gauhati High Court Bar in 1963 and had an extensive practice, specially in writ, taxation, corporate and commercial laws.
4. He was appointed a Judge in the Gauhati High Court on 2 January 1989. He was transferred to Bombay High Court on 11 December 1991. He also served as Acting Chief Justice of this Court. Dr. Saraf was appointed Chief Justice of Jammu & Kashmir High Court on 21 February 2000 wherefrom he retired on 22 August 2001.
5. Dr. Saraf spent every day of his life with devotion, humility and adherence to the values of life. For more than 12 years, as a Judge his concern was justice.

6. The humble background of Dr.Saraf made him relate to the difficulties of the common man which was reflected in his judgments. He attempted to bring justice to the door steps of the people by introducing a mobile court which would travel and have sittings at interior parts of Kashmir, to save the public from the inconvenience of travelling often for hearing of their cases.

7. On the Bench, Justice Saraf was well known for his quick grasp of the facts and law and his clarity of thought. Justice Saraf delivered a number of landmark judgments on Income-tax, Sales tax, Corporate law etc such as CIT vs. Bombay Oilseeds, 202 ITR 198 (Bom) (*mutuality, diversion at source by overriding title*), Caltex vs. CIT, 202 ITR 375 (Bom) (*appeal against non-grant of s. 214 interest*), CIT vs. Gabrial, 203 ITR 108 (Bom) (*scope of 2. 263 revision*), CIT vs. Abdul Ahad, 247 ITR 710 (J&K) (*reconciling Sugauli 236 ITR 518 (SC) with T. V. Sundaram Iyengar 222 ITR 344 (SC) on s. 41(1)*) and several others.

8. After retirement, Justice Saraf had a flourishing career as an arbitrator. He was appointed as an Arbitrator in International and Domestic Commercial Arbitrations by the Chief Justice of India and the Chief Justices of various High Courts and also by prominent Arbitral Institutions including at Geneva, London and Singapore.

9. Dr. Saraf attended a large number of conferences, seminars and workshops on Arbitration organized by prominent Arbitral Institutions in different parts of the country as Chairman, Key-note Speaker, Panel Chairman, Inaugurator and in various other capacities.

It was at one such Conference held in New Delhi where I had the privilege of meeting Dr. Saraf for the first time. When we met again in Bombay within a couple of months of my coming here, I was impressed by his concern for the Judiciary in general and his respect and affection for the Bench and the Bar of the Bombay High Court, in particular.

10. We are grateful to Dr. Saraf that he gave the benefit of his erudition and expertise on the subject through his book "Law of Arbitration and Conciliation" which he co-authored with Justice S.M. Jhunjhunwala. He made analytical study of the UNCITRAL Model Law including Working Group Discussions, DAC Report, Arbitration Law of England and other countries, works of renowned jurists and academicians on Arbitration and ADR. In 2004, Government of India also acknowledged his contribution by appointing him as Chairman of the Committee to study in depth the implications of the recommendations of Law Commission of India contained in its 176th Report and all aspects of the Arbitration and Conciliation (Amendment) Bill, 2003. The "Justice Saraf Committee on Arbitration" submitted detailed report on 29 January 2005. He was also appointed Chairman of the "State Backward Class Commission, Maharashtra", and continued to hold the post till he breathed his last.

11. Dr. Saraf was actively associated with various educational, social and charitable institutions and service organizations including Rotary Club since 1968. He served as president of the Rotary Club of Gauhati and leader of the Group Study Exchange Team which visited South Australia and Victoria in 1988 for six weeks. He was also closely associated with International Red Cross.

12. Dr. Saraf was a simple and wonderful man who achieved greater heights by dint of his abilities and moral values. His passing away will not only leave a void in our lives but also in the hearts of all those who knew him. We all know death is inevitable but it is through our deeds that make our life immortal. Dr. Justice Saraf will always remain within our hearts.

13. Dr.Saraf has left behind him his wife Mrs.Gita, son Dr.Ashok Saraf, Advocate General of Arunachal Pradesh, daughter Mrs.Arpana Choudhury and younger son Dr.Birendra Saraf, distinguished Advocate of the Bombay High Court.

14. My colleagues and I share the feelings of all those who have gathered here in expressing 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 D.J. Khambata, Advocate General, at the Full Court Reference to Late Dr. Justice B.P. Saraf, Former Chief Justice of Jammu & Kashmir High Court and Judge, Bombay High Court, on 18th July, 2012

My Lord the Hon'ble the Chief Justice Shri Mohit Shah, Hon'ble Judges of the Bombay High Court, Shri Kevic Setalvad, Additional Solicitor General of India, Shri Konde Deshmukh, Chairman, Bar Council of Maharashtra and Goa, Shri R.A. Kapadia, President, Bombay Bar Association, Shri Rajiv Patil, President, Advocates' Association of Western India and Shri D.R.Zaiwalla, President, Bombay Incorporated Law Society and members of the Bar,

We gather here today to mourn the death of Justice B.P.Saraf, former Judge of the Gauhati and Bombay High Courts and Chief Justice of the Jammu & Kashmir High Court.

Justice Saraf had humble beginnings. He schooled even whilst helping his father run a small shop selling cloth in Gauhati. Later in his life each day he used to cycle 10-15 kms. to teach at University. Perhaps his practical training with his father in running the cloth shop, gave him a sharp commercial sense which stood him in great stead in later years when he had to decide complex commercial and financial issues.

Justice Saraf had a brilliant academic career. He stood First class first both in the B.Com. and M.Com. examinations and also stood first in the LL.B. examination. He wrote a thesis for his doctorate on "Capital taxation in India".

He started his practice at Gauhati High Court bar in 1963. His core area of practice was administrative law and tax. He was designated as a Senior Advocate by the Gauhati High Court and was elevated to the Bench in January 1989.

His busy practice never hindered his championing of social causes. He was closely associated with the Red Cross and the Rotary Club.

After a brief stint as a judge at the Gauhati High Court he was transferred to the Bombay High Court in December 1991 and it was here that he truly found his métier.

It is said that the essence of India is its ability to absorb diverse cultures and influences and make them its own. Much the same can be said of Justice Saraf. He came to the Bombay High Court as a judge untouched by the ethos and lore of our Court and its conventions but when after nine years, he finally demitted office as Acting Chief Justice of this Court he had become an inextricable part of its history. The Bar no longer considered him as a Judge from outside but rather as a son from within. That was no mean achievement.

Justice Saraf is remembered as a sound, independent and erudite Judge with a subtle appreciation of commercial law. He delivered judgments on several important issues relating to tax, arbitration and on constitutional questions. For a long time he headed the Income Tax Bench of our Court.

What the mute pages of the law reports do not reflect was the wit that he brought to the case at hand. All of us who have appeared before him remember his Court to be filled with humour yet one that never lacked in intelligence or pragmatism.

In the Bombay Oilseeds case [Commissioner of Income Tax v. Bombay Oilseeds and Oil Exchange Ltd. (1993) 202 ITR 198 (Bom)] he drew a distinction in the legal effect, between an obligation attached to the source of income and the obligation to spend income in a particular manner. The reasoning and language employed by him was precise and cogent.

While construing the provisions of Section 214 of the Income Tax Act in the Caltex case [Caltex Oil Refining (India) Ltd. v. Commissioner of Income-tax (1993) 202 ITR 375 (Bom)], Justice Saraf held that interest payable to the assessee by the Government for the advance tax paid by the assessee was part of the assessment and hence was tax. He held that if there was a variation by the assessing officer of the quantum of the interest, either by enhancement or reduction, it would be assessment of tax and consequently amenable to appeal under Section 246(c) of the Income Tax Act.

Sitting as the Chief Justice of the Jammu & Kashmir High Court in Abdul Ahad's case [Commissioner of Income-tax v. Abdul Ahad (2001) 247 ITR 710 (J&K)] Justice Saraf reconciled two seemingly conflicting decisions of Supreme Court in Sundaram Iyengar's case [CIT v. T.V.Sundaram Iyengar and Sons Ltd. 222 ITR 344 (SC)] and Sugauli Sugar Works case [CIT v. Sugauli Sugar Works (P) Ltd. 236 ITR 518 (SC)] by holding that a mere entry in the books of account by the assessee would not enable the Department to apply Section 41 of the Income Tax Act so as to include the amount in the total income of the assessee.

He delivered several important judgments dealing with the then new provisions of the Arbitration and Conciliation Act 1996 and helped shape the law under it. He was pro-arbitration and rarely interfered with Awards.

A pro-citizen judge, in an excess billing case [Abdul Aziz Meherbaksh v. Mahanagar Telephone Nigam Ltd. AIR 2000 Bombay 260] he held that the statutory safeguards incorporated in the manual of the Telephone Department must be strictly adhered to and the benefit of excess billing must be kept in abeyance till investigation and disposal of the complaint by the Department.

His civil liberties leanings came to the fore when he interpreted the law in favour of the individual if statutory safeguards regarding intercepting and opening of postal articles were not strictly complied with. In Communist Party of

India v. Commissioner of Police, Greater Bombay AIR 1995 Bombay 136, while construing Section 26 of the Post Office Act 1898 he held that the authorities ought to follow the condition precedents in the statutory mandate and record reasons in case the authority chose to invoke Section 26.

Justice Saraf reached the pinnacle of his judicial career when he was appointed Chief Justice of the Jammu & Kashmir High Court in February 2000. He strove hard to reduce the number of pending cases in that High Court. Sensitive to the hardship litigants suffer, he introduced a novel system of a “grievance box” in all the subordinate courts wherein litigants could drop box their grievances. These boxes were then opened by the representative of the High Court and the issues addressed. He was the Chief Justice of the Jammu & Kashmir High Court during troubled times. The security cover provided to him was very elaborate and the security agencies would advise him not to take the same place each time he would sit on the lawns for a cup of tea. The advice of the security agencies did not deter him one bit from travelling to the remotest parts of the State to initiate the process of opening of new courts. He had the courage of his convictions!

On retirement, Justice Saraf settled in Mumbai – his adopted home and this was no surprise. His forensic skills particularly in commercial matters made the commercial capital of India a natural choice. He acted as arbitrator in several domestic and international arbitrations.

Justice Saraf was a jurist. He co-authored the book “Law of Arbitration and Conciliation” which is a leading commentary on the law of arbitration in India. After retirement, the Government of India appointed him as Chairman of the Committee to study the implications of the 176th Report of the Law Commission of India and to make necessary recommendation for the proposed amendments to the Arbitration and Conciliation Act 1996. He was also the

Chairman of the State Backward Class Commission. He was a prominent speaker at various fora.

It is said that "*a rolling stone gathers no moss*" but the opposite is true of Justice Saraf. He gathered goodwill and affection at each stop of his judicial career. That fund of affection is now his legacy.

The Bar's condolences are extended to his wife, his daughter and his two sons both of whom are successful Counsel, Dr. Birendra Saraf and Dr. Ashok Saraf, and to the entire bereaved family.

Address by Shri Kevic Setalvad, Additional Solicitor General of India, at the Full Court Reference to Late Dr. Justice B.P. Saraf, Former Chief Justice of Jammu & Kashmir High Court and Judge, Bombay High Court, on 18th July, 2012

My Lord, the Chief Justice, the Hon'ble Judges of this Hon'ble Court, Mr. Darius Khambata – the Hon'ble Advocate General of Maharashtra, Mr. Rohit Kapadia – the President of the Bombay Bar Association, Mr. Rajiv Patil – the President of the Advocates' Association of Western India and the members of the Bar.

We are all gathered here today to remember Dr. Justice B.P. Saraf: a man who rose from humble beginnings to become the Chief Justice of Two High Courts; the Acting Chief Justice of our own Bombay High Court, as well as the Chief Justice of the High Court of Jammu and Kashmir. A man who educated himself (the first person from his family, at the time, to do so), to become a University topper and to earn for himself a Doctorate on the subject – *Capital Taxation in India*. A self-made man, he rose from humble beginnings in Gauhati, to Chair Arbitral Tribunals all over India, and on the International scene, including in Geneva and in London. During his career, as a lawyer, judge and then later as an arbitrator, Justice Saraf left his mark on the legal profession from Gauhati, to Mumbai, to Jammu and Kashmir, back to Mumbai and all over the International Arbitration scene.

Justice Saraf was no ordinary arbitrator. He understood both the letter and the spirit of arbitration. He not only was a successful arbitrator, and a very busy one, both in India and Internationally, but was also, also as most of us are aware, the Chairman of the Committee which came to be known as “Justice Saraf Committee on Arbitration” - which was constituted by the Government of India to study in-depth, the implications of the recommendations of the Law Commission of India contained in its 176th Report and all aspects of the

Arbitration and Conciliation (Amendment) Bill, 2003, which under his leadership submitted a detailed report on 29th January, 2005.

Justice Saraf's legal passions were taxation law and arbitration – two strikingly different branches of the law and yet, he adequately mastered them both, and contributed considerably to both.

In the field of taxation law, Justice Saraf delivered landmark Judgments such as, CIT v Bombay Oilseeds, 2002 ITR 198- Bom (which related to mutuality, diversion at source by overriding title); Caltex v CIT – 2002 ITR 375 (appeal against non grant of S. 214 interest); CIT v Gabriel – 203 ITR 108 (scope of revision) and others.

Justice Saraf has also authored the well respected book “Law of Arbitration and Conciliation” which is a fine and balanced guide on the law of arbitration; and we at the Bar, and on the Bench, use it regularly.

On a more personal front; Justice Saraf was an extremely compassionate and altruistic man, and a family man to the core. A life-long Rotarian, with an active involvement with the International Red Cross, and various other charitable organizations, he devoted several long hours pursuing charitable causes especially during the Court holidays when he took a break from his arbitrations. Several persons were present at his funeral, singing hymns – gently acknowledging his quiet, but notable, contributions to Society and to his fellow human beings.

I had the pleasure of appearing before Justice Saraf, in several matters when he was a Judge, and thereafter when he became a full time arbitrator. What always struck me was the quickness with which he got a point, and as to how quickly he came to the heart of the matter. Always pleasant, and with an

often missed dry wit, he – many a time – caught me out when I tried to put too much gloss on an argument which wasn't.

Personally, I shall always remember Dr. Saraf as a person full of life, and spirit. Always with a bounce in his stride, and a quick smile. In the last two years, I had occasion to repeatedly meet him when he conducted his several arbitrations in the Conference hall adjacent to my Chambers. Whenever he met me in the corridors of our building he always reminded me that I would be seeing even more of him; and that he had booked the same Conference hall almost six months in advance! Indeed, I found that he was so tirelessly busy that he often had, two, and sometimes even three arbitrations on the same day. However, not once, did he seem weary – in fact, the high work load seemed to energize him to do even more.

He was kind enough, last year, to gift me a table top Cross pen set (with my name embossed on it), and I use it every day, and remember him with a smile, each time that I do.

Unfortunately, Justice Saraf's voyage of work, and life, was abruptly cut short, when on a family vacation in South Africa, in May this year. Sad it is for all of us; and a sad, sad, shock for his family – but for Justice Saraf himself, I would like to think, a lovely way to go on holiday with his family, having signed a several Arbitral Awards, in his last few days, and as always, full of life.

I, as we all, shall miss him.

Thank you.

Address by Shri Vitthal Bhaurao Konde-Deshmukh, Chairman, Bar Council of Maharashtra and Goa, at the Full Court Reference to Late Dr. Justice B.P. Saraf, Former Chief Justice of Jammu & Kashmir High Court and Judge, Bombay High Court, on 18th July, 2012

My Lord the Hon'ble the Chief Justice Shri Mohit Shah and other Hon'ble Judges of the Bombay High Court, Mr. D.J. Khambata, Hon'ble Advocate General, State of Maharashtra, Shri Kevic Setalvad, Hon'ble Additional Solicitor General of India, Mr. R.A. Kapadia, Hon'ble President of the Bombay Bar Association, Mr. Rajiv Patil, Hon'ble President of the Advocates' Association of Western India and Shri D.R. Zaiwalla, President, Bombay Incorporated Law Society and my colleagues at the Bar, distinguished ladies and gentlemen.

We have assembled here this morning to mourn the sad demise of late Dr. Shri B.P. Saraf, former Judge of Gauhati and Bombay High Courts and Chief Justice of Jammu & Kashmir, who left for his heavenly abode on 15th May, 2012 at the age of 73 years.

We have all heard the sentiments expressed by the Hon'ble Chief Justice on sad demise of Dr. Justice B.P. Saraf. I share every sentiments expressed by Hon'ble Chief Justice and hasten to add few of my own.

I would like to pay humble tributes, on my behalf and on behalf of Bar Council of Maharashtra and Goa to late Dr. Justice B.P. Saraf, the distinguished jurist and able administrator, whose sterling contribution added a new dimension to our service jurisprudence. He was indeed a many splendored personality, intellectual judge, able administrator, orator, no peril, having beautiful sense of humour, the list is endless. More importantly, he was the epitome of humbleness, humility and unforgettable courtesy.

Late Dr. Justice B.P. Saraf was born on 23rd August, 1939. He practiced as an Advocate since 1963 in Gauhati High Court. He had an extensive practice in the Gauhati High Court specially in writ, taxation, corporate, commercial and service laws. He was designated as a Senior Advocate by Gauhati High Court and also was a Standing Counsel for the Income tax Department for the North East India for 4 years.

He had also served as a Lecturer for taxation and Labour Laws in Gauhati University. He was author of famous book 'Sales Tax Laws in Assam and Meghalaya' and also author of Classic work on Arbitration and Conciliation Act, 1996.

He was President of Kamrup Chamber of Commerce and North East India Tax Bar Association. He was also associated with National Institute of Public, Finance and Policy and Union Public Service Commission as Advisor.

Dr. B.P. Saraf was elevated as Judge of Gauhati High Court on 2nd January, 1989 and thereafter he was transferred to Bombay High Court on 11th December, 1991.

After serving as an Acting Chief Justice of Bombay High Court, he became the Chief Justice of Jammu and Kashmir High Court on 21st February, 2000 and retired on 22nd August, 2001.

Late Dr. Justice Saraf was a luminary of Bombay High Court and after contributing his service, was appointed as a Chief Justice of Jammu & Kashmir High Court. With his experience of Bombay High Court, late Dr. Justice Saraf leaves behind an exemplary legacy which I am indeed sure would be substantial guidance to the Bench and Bar.

My Lords, on behalf of Bar Council of Maharashtra and Goa, I join
Your Lordships in offering my condolence to the bereaved family.

May his soul rest in peace.

Thank you.

Address by Shri Rohit A. Kapadia, President, Bombay Bar Association, at the Full Court Reference to Late Dr. Justice B.P. Saraf, Former Chief Justice of Jammu & Kashmir High Court and Judge, Bombay High Court, on 18th July, 2012

My Lord the Chief Justice, Hon'ble Judges of the High Court of Bombay, my learned friends sitting with me here today, members of the bereaved family, Ladies and Gentleman,

We have gathered here today to pay homage to a distinguished Judge of this Hon'ble Court who passed away on 15th May, 2012.

Dr. Justice Saraf exhibited considerable erudition during his academic career. He distinguished himself as an Advocate also. Not content with this, he also distinguished himself as an author of books on taxation and other legal subjects. His work on the Arbitration and Conciliation Act, 1996 is a legal classic. All these achievements were capped by a distinguished career on the Bench as a Judge of the Gauhati High Court, this Court and as the Chief Justice of the Jammu & Kashmir High Court. He retired on 22nd August, 2001 and thereafter acted as Arbitrator in important commercial Arbitrations, both in India and abroad.

But, there is another side to the multifaceted personality of Dr. Justice Saraf. He was a person who lived life to the full. His perennial youth, his association with social causes, his techno savvy nature and voracious reading made him a man who was larger than life. He was involved with various social institutions in Assam for advancing education and social causes. He was more techno savvy than even youngsters and was always exchanging tips about gadgets with junior members of the Bar and even young interns from the law firms. He was a voracious reader on subjects as diverse as religion and politics.

With his love for gadgets and his habit for voracious reading, Kindle became his constant companion.

Dr. Justice Saraf spent his last few days in the same way that he had done all his life viz. He worked till 7.00 p.m before taking the night flight for a

vacation in Africa with his family. He exhibited a child like delight in spending quality time with his family. After a full day with his family and hearty dinner with them he passed away in Tanzania in the midst of his family members. We shall all miss him.

I join the Hon'ble Chief Justice and other speakers on this occasion to extend my heart felt sympathy to the members of his family with a sincere wish that God give them the strength to bear their loss bravely.

Address by Shri Rajiv Patil, President, Advocates' Association of Western India, at the Full Court Reference to Late Dr. Justice B.P. Saraf, Former Chief Justice of Jammu & Kashmir High Court and Judge, Bombay High Court, on 18th July, 2012

Honourable the Chief Justice Mr. Mohit Shah and the Honourable Judges of the Bombay High Court, Hon'ble Mr. Darius Khambata, Advocate General of Maharashtra, Mr. Kevic Setalvad, Additional Solicitor General, Mr. Vitthal Konde-Deshmukh, Chairman Bar Council of Maharashtra and Goa, Mr. Rohit Kapadia, President of Bombay Bar Association, Mr. Dinsoo Zaiwala, President, Bombay Incorporated Law Society, Mr. Birendra Saraf and family, Members of the Bar, Ladies and Gentlemen;

Today we are assembled here to pay our respects to departed soul of late Justice Dr. B.P. Saraf, who left us on 15th May 2012. An eminent judge of the Bombay High Court and former Chief Justice of Jammu and Kashmir High Court delivered several judgments to do the justice to the common man.

Born on 23rd August 1939, Justice Saraf began his law career in the year 1963 at Assam High Court. Justice Saraf had great educational career, Masters of Commerce, Law and thereafter Doctorate. With his specialization in law of Taxation and Company Law he was opportune to represent Income Tax Department, North East Region of India.

Justice Saraf was elevated to the Bench as permanent Judge on 2nd January 1989 and was transferred to Bombay High Court on 11th December 1991. Justice Saraf during his tenure of 10 years as a Judge of this Court decided cases on various subjects in law. Every judgment delivered by him was treatise giving equal emphasis on the facts, submissions, position in law, its interpretation and precedents. He weighed every facet of the case and gave decision which culminated into justice. He was a very popular judge and had typical style of handling the matters of complex questions of law. His judgment in Full Bench presided over by Honourable Justice A.A. Cazi (as he then was) of this Honourable Court on `Section 34 of Code of Civil Procedure, where he

interpreted the term "Principal sum adjudged" is considered a landmark. . He contributed to the Full Bench presided over by Hon'ble Justice Sujata Manohar (Retd.) wherein the issue "whether a Multi State Co-operative Bank was 'State' under Article 12 of Constitution of India' was decided. Justice Saraf as a senior judge of Division Bench of this Hon'ble High Court delivered most important judgment at the beginning of opening of Indian Economy to globalization. He dealt with Petitions relating to Power Purchase Agreement and 'Dabhol Power Project' popularly known as 'Enron'. He did it twice. In one of the Petitions filed by veteran socialist late Mr. P.B. Samant and late Mrs. Mrinal Gore, I had an opportunity to assist senior Advocate late Mr. Arvind Bobde before the Bench of Justice Saraf in Court No.31. He was with strict discipline in following letters of law. He was an erudite man with impeccable manners and courtesy towards the Bar. He was the person instrumental in improving working methods in Bombay High Court by introducing system of preparing synopsis to the petitions in Bombay High Court. Today the system helps a lot to Bar and the Bench.

His conviction to the field of law is commendable and noticed by every faction of the society. As a result he served three High Courts in India, High Court of Assam, where he started his career as a Judge, High Court of Bombay and as a Chief Justice of High Court of Jammu and Kashmir.

Retirement did not deter him from continuing his devotion to the field of law and was active throughout. On behalf of members of Advocates' Association of Western India I pay my tribute to the departed soul.

I pay my respects and express heart felt condolences to the family members of Justice Saraf and pray may his soul rest in peace.

Address by Shri Dinsoo Zaiwalla, President, Bombay Incorporated Law Society, at the Full Court Reference to Late Dr. Justice B.P. Saraf, Former Chief Justice of Jammu & Kashmir High Court and Judge, Bombay High Court, on 18th July, 2012

The Hon'ble the Chief Justice Mr. Mohit Shah, My Lordships the companion Judges of the Bombay High Court, Mr. Khambata, the learned Advocate General, Mr. Kevic Setalvad, Additional Solicitor General of India, Mr. Rajiv Patil, President of the Western India Advocates Association, Mr. Konde Deshmukh, Chairman of the Bar Council of Maharashtra and Goa, Mr. Rohit Kapadia, President of the Bombay Bar Association, members of the family of Justice Saraf, and my colleagues at the Bar.

1. On behalf of the Incorporated Law Society and the fraternity of Solicitors, I am required to convey our members grief on the sad demise of Justice Saraf, one of the doyens of this great Court who passed away on 15th May, 2012 in Tanzania.

2. I humbly concur with the sentiments so eloquently articulated by the Learned Chief Justice and by the Learned speakers before me. Justice Saraf was physically of short stature but disclosed tall cherished ideals for dispensation of justice. In passing away of Justice Saraf the legal fraternity has indeed lost a pioneer of judicial thought.

3. The singular focus of Justice Saraf was to reach the truth in all matters before him by all means available to him within the parameters of law. This focus was somewhat thwarted by our adversarial jurisprudence prevailing in our judicial system where the Judge sits as a mere neutral empire.

4. Our Apex Court has now held that the Adversarial system lacks dynamism and hence we are required to follow the Inquisitorial pro-active system. Had this paradigm change come during the time of Justice Saraf it would

have made Justice Saraf immensely happy and in his quest of justice would have played an important part in his endeavour to find the truth in all matters before him.

5. The best tribute therefore which the Bench and the Bar could pay to the memory of Justice Saraf would be to ensure that this paradigm change which bestows added responsibility on the Judges and the Bar works successfully to enhance public confidence in the justice delivery system being the imperative need of the day.

6. Justice Saraf shall indeed be remembered for his meticulous research in every matter that he heard.

7. On behalf of the Incorporated Law Society I wish to convey our grief to the family members of Justice Saraf and to ease their losses may I be permitted to read a scriptural text:

“There is no death, life is a continuous event that the inner man's soul clothes itself with a new garment discarding the old and begins the new journey”

And to quote Tagore:

“Death is not extinguishing the light, it is putting out the lamp because the dawn has come.”

May the spirit of demise Lordship remain with us in eternal guidance and the good Lord gives strength to his loved ones whom he leaves behind to bear this irreplaceable loss.