

FULL COURT REFERENCE

to

H M SEERVAI

(February 1, 1996)

In the death of Hormusji Manekji Seervai, one of the brightest stars in the legal firmament has gone out, leaving a shadow that casts itself, not only over the legal world, but over every one of us who had the good fortune of knowing him.

To say he was the last of his kind would be to speak a lie: for Seervai could never be one of a kind; he was *sui generis*, he was unique. For him there were in life no shades of grey: there was only black and white, right and wrong. He set for himself the highest standard of moral integrity and in that he was totally inflexible and uncompromising, at times unreally so. When a young colleague asked what could be wrong about charging high fees when clients were willing to pay them, unhesitatingly came the answer: "If a man is willing to be robbed, would you be a thief?"

His integrity of purpose was coupled with immense courage: when Sir Jamsedji Kanga (who venerated the office of judgeship) was appalled that Seervai was contemplating a complaint against a sitting Judge of this Court, Seervai said he would not embarrass Jamsedji and would leave his Chambers. But do his duty he must. Jamsedji appreciated the courage of his conviction and supported Seervai who succeeded in unseating the Judge. **Seervai was to show the same daunting and fierce courage throughout his life: his credo is reflected in the lines of Sir Walter Scott - I can almost hear him recite them in his stentorian voice:**

"Without courage, there cannot be truth, and without truth there can be no other virtue."

For over 17 years Seervai brought to the office of Advocate-General dignity, forthrightness and a fierce independence. During those luminous years, Government had the benefit of sage and objective advice, the citizen an opponent who fought keenly but never unfairly,

and the Court the advantage of an argument as well-constructed as it was balanced; and as a bonus the Bombay Bar Association a President who commanded the respect and affection of its members.

Sitting on the first floor in what was then the Advocate-General's chamber, Seervai was accessible to one and all - the juniormost member could enter and no problem of his was too small or too insignificant. He was incapable of being derisory of anyone or of any argument, whether it came in conference from the juniormost counsel or even the client. It would be examined, discussed and reasoned with a patience that was truly heroic.

This virtue which enabled him to suffer even fools is best typified by the vagabond at the Oval who mischievously suggested that the flask Seervai was carrying contained illicit liquor. Anyone else would have ignored it, but not Seervai: he stopped and explained in detail how one section contained tea and the other milk as the two should not be pre-mixed. The vagabond departed, chastened but a wiser man.

Over a career at the Bar that spanned some 65 years, Seervai could justly claim that his most abiding contribution to the law, greater than all his arguments in the most important constitutional cases, greater than all the awards and distinctions he received, was his *magnum opus*. The Constitution of India. It was and is the greatest work of Indian scholarship and hailed as such, not only in India, but throughout the world. This was, indeed, his great labour of love and one that engaged him from 1961 until his death, and at times to the exclusion of all else save his family.

Seervai and my father had a special relationship: counsel and puisne Judge, Advocate-General and Chief Justice, author and critic and, finally, comrades who fought the common cause of democracy and civil liberties. They could not meet over dinner: Seervai would want an early meal without any pre-prandial refreshment, my father precisely the opposite. Compromise was reached: Seervai would drop in for tea, sharp at 4 o'clock. Even as it approached 5.30, my father would steal a glance at his watch when Seervai would say "Yes, Chagla, I know. It's time for your bridge at the Club - we can go down

together." I once remonstrated with my father that this was very rude when I was told "Nothing of the sort - Seervai and I have known each other much too long for either of us to take offence." When we established the Chief Justice Chagla Memorial Trust, Seervai and Nani Palkhivala were the automatic choice for trustees. Happily, the Trust helped to bridge the great gulf that sometimes occurs in the greatest of friendships.

Seervai was known to say that in his life the priorities were Family, Literature and the Law - strictly in that order.

His love of reading encompassed the great prose and poetry of the English Language - the range was formidable and included the great philosophers, the classics, the entire works of Churchill (whom he idolised); Milton, Shakespeare, Tennyson, Byron, Keats, his favourite Wordsworth. He would say that he had read, re-read and re-re-read them all; indeed, he could quote extensively and at will, and was always ready with the right quotation for the occasion.

On his very first visit to England in 1973, his knowledge of English history sometimes proved an embarrassment to the guide who took them around historical sites; it prompted a visitor to ask whether he was a Professor of History in an English University and was surprised at the answer that he was only a lawyer from India.

But there was nothing in his life, no briefs in Court, no conferences, no pressing engagements that would ever prompt Seervai to say to his beloved wife Feroza or his children Meher, Shireen or Navroz "Not now - I'm busy". There could have been no more loving or devoted husband - of course, Seervai would have said he was only reciprocating a love as great as his own; or a father who devoted as much love, time and attention on his children, and, latterly, his grandchildren.

It was this all-pervasive and all-encompassing love for the family that dictated that he refuse, in 1956, a judgeship of the Supreme Court. he would have had a tenure of 15 years, 5 1/2 of them as the Chief Justice of India; it was for the same reason that he declined, in 1971, the office of Attorney-General of India. He believed that the move to

Delhi would disrupt his family life and nothing could be more precious and no sacrifice too great to preserve that unity and harmony.

My lords, Seervai lived as he believed a man should; he died, I believe, as he, himself, would have wished. He had only just celebrated his golden wedding anniversary, he had attended the Navjote ceremony of a grandchild; even the 4th Edition of The Constitution of India was complete. In the fitness of things, Seervai chose to leave us on the anniversary of the birth of our Constitution and the Republic. My lords, we shall feel the lack of him more than words will ever express; but our consolation is that he will continue to live in the minds and hearts of all those who were privileged enough to know him.

I should like to end with his favourite lines from Milton - they are appropriate to the man we remember today:

“.....unmoved
Unshaken, unseduced, unterrified,
His loyalty he kept, his love, his zeal,
Nor number, nor example with him wrought
To swerve from truth, or change his constant mind.”

On behalf of myself and the members of the Bombay Bar Association, I convey my heartfelt condolences to Feroza, to Meher and Shireen, to Navroz and to his grandchildren.