

Mr. M. C. Setalvad

Reference on the death of Mr. M. C. Setalvad, Padma Vibhushan on Monday, August 5, 1974 in the High Court.

Hon'ble Mr. R. M. Kantawala, Chief Justice, said:

Mr. Mathalone and members of the Original Side Bar.

We have met here this afternoon to pay our high respects and deserved tributes to Mr. Motilal Setalvad who departed from this world, on Thursday last. He was the most distinguished son of a very illustrious father Sir Chimanlal Setalvad. He was an active member of the Bar for a period of over six decades. He was enrolled as an Advocate on the Original Side of this High Court, in the year 1911, even before I was born. Those were the days when it was extremely difficult for a young junior to make his headway in the profession in competition with eminent English members of the Bar who were in active practice. His task was extremely difficult as he began his career with an absolute and firm determination as noted in his diary:- "No flattery, no dishonesty, no untruthfulness. Must walk absolutely straight. They say this sort of thing does not work in practical life. I shall see". He truly and faithfully adhered to every syllable of what he noted in his diary all his life. Notwithstanding that his father was an eminent lawyer in those days he had to wait patiently for eight to ten years for briefs to come to him. He used this period to make a thorough study of all aspect of law with emphasis on first principles. Long before I joined the bar, he had acquired eminence in the legal profession. The inspiring path that he laid down in actual practice in legal profession is ideal for posterity to follow. He never misled the Court for interest of the party he represented. If in his honest opinion the party he represented had no case, he had the courage to tell the court "My Lords, my clients

has no case". He was throughout his career as a lawyer, a symbol of integrity, honesty, uprightness and truthfulness. In a true and ideal sense he was an officer of the Court whose duty it was to assist the judge to administer justice. He was never rude to any counsel opposing him even under provocation. He never lost his serenity and dignity. He was invariably considerate to junior counsel who were on the other side in any case. Even outside the Court he helped many junior counsel by giving them guidance and advice. He was outspoken and straightforward when anything incorrect was done at any level. He never allowed personal considerations or intimate friendship to affect his principles or judgement. Courage and rectitude were his strong characteristics and virtues throughout his life. He always gave advice without fear or favour. His high standards as counsel and as a man of principle were never diluted by him for any reason whatsoever. Though he appeared reserved by nature, he was affectionate to persons whom he found worthy of his trust.

He was the greatest of Indian Jurists in the post independence era, an outstanding and eminent personality, a sound and astute lawyer, one of the brightest legal luminaries of the country and a nationalist son whose services were requisitioned by Government for upholding the cause of the country in international forum. Few persons acquired the eminence that he achieved in a life of almost ninety years. He refused to become the first Indian Chief Justice of the High Court of Bombay when offered the post by then British Government. He was appointed Advocate General of Bombay from 1937 to 1942. But he gave up the office when Quit India Movement started. A conflict arose in his conscience between his duties to the office and his duties to the Nation. On India becoming independent and Supreme Court being established he was

the first Attorney-General of India from 1950 to 1962. Immediately after partition he represented the country before the Radcliff Commission which determined India's boundary with West Pakistan. After India became independent he constantly strove to strengthen the foundation of Indian Constitutional Law and democracy. His contribution in moulding the rule of law in this country was unique and outstanding. Hardly there was a matter before the Supreme Court involving constitutional controversy when his presence was not required.

Throughout his career as a lawyer he was completely independent in thought and outlook, fearless in expression of his opinion and no respecter of personality. To mention only an instance or two, when he assisted the Chagla Commission in the Mundra Inquiry, he was devastating in his criticism of the role of then Finance Minister. He always refused to surrender his judgment of what was right. It is said at one stage he even offered to resign from the office of Attorney General and claimed his right to address Parliament as such.

His contribution to uphold the cause of the country in International Forum is unique and outstanding. He was the leader of the Indian Delegation in 1949. A year earlier he was the member of the delegation to the Security Council on the Kashmir issue. He was the Principal Representative of India for the Kashmir issue in the Security Council again in 1952. He appeared in the World Court at Hague to present India's case in its dispute with Portugal on the right of passage for the latter through Indian Territory. He was the leader of the Indian delegation to first, second, third, fourth and fifth sessions of Asian-African Legal Consultative Committee.

He was the Chairman of the Law Commission for three years from 1955 and lent his assistance to simplify the laws in the country. He was the President of the Bar Association of India.

He was a member of the Rajya Sabha and whenever an occasion arose he rarely hesitated to fearlessly express his views on the burning topic of the day. He has to his credit the authorship of many books. A full account of events of his life one can read in the pages of his Autobiography "My Life – Law and other Things" recently published in 1971.

Today we are paying our humble tributes to a man who rose step by step to a position of high eminence by adhering to 'high esteemed principles' and by fearlessly following the path of rectitude all his life – to a man of high ethical and intellectual stature. In the history of the legal profession of this era his name will always be written in letters of gold as a symbol of integrity, honesty, uprightness and truthfulness. Such a towering personality has suddenly disappeared from our midst. By his demise an illuminating star in the legal firmament of the country has faded into eternity and it is difficult to fill the void created by his sad demise. My brother Judges and I share the grief that has befallen on the bereaved family. May his soul rest in eternal peace.

**Reference on the death of Mr. M. C. Setalvad,
Padma Vibhushan on Monday, August 5, in the High Court.**

MR. R. MATHALONE:

May it please Your Lordship, the Chief Justice and other Hon'ble Judges:

On behalf of the Bombay Bar Association I would like to associate myself with everything that has fallen from Your Lordship, the Chief Justice. I regret that the Advocate General was not able to be present today, but he has sent a message which he has asked me to read out to Your Lordship.

"I deeply regret my absence from Bombay, but I would like to associate myself with the tributes which will be paid today to the memory of Motilal Setalvad. In his passing away we mourn the loss of an advocate who added luster and renown not only to the Bombay Bar but to the Bar throughout India; who filled the office of Advocate General of Bombay, and the Attorney General of India with great distinction; who rendered invaluable service as Chairman of the Law Commission who served our country devotedly in many fields and who, by precept and example, strove to uphold the rule of law to the very end of his long and eventful life".

My Lords, we received a very big shock last Saturday when we heard of the passing away of Motilal Setalvad. The shock was greater because we knew he was in good health and had only a short time ago been appearing in cases in the Supreme Court and had

shown that there was no impairment of his faculties, either mental or physical due to his advanced age. My Lords, when I came to the Bar over 50 years ago, Motilal Setalvad had just started building up a practice. In those days a ten years waiting period was normal for young people at the Bar. Young men who went to the Bar had to have a good staying power, a lot of patience and a lot of confidence in their ability to pass through those dreary years. Motilal Setalvad had all these qualities and when he turned the corner so to speak his practice grew rapidly. At that time, My Lords, Motilal's illustrious father, Sir Chimanlal Setalvad had a leading practice at the Bar. After some years we witnessed in the Bombay High Court the strange phenomenon of father and son both having a leading practice. Motilal was from the very beginning a very industrious man. He never liked being idle. Before going into the Court he always mastered all facts of his case and always looked up all the law relating to that case. I remember once he went to England for a holiday and when he came back I asked him in the library, how he spent 14 days on board the ship with nothing to do. He told me that he spent his time reading and studying Dante's classic poem "The Divine Comedy". But industry alone would not have been sufficient for him to reach the eminence that he did. His advocacy was notable for its clarity of expression, for its economy of words, and for its persuasive quality. He was never diffuse. He made his points shortly and effectively. He had a very quiet dignity. But the quality which earned him the greatest esteem and respect from his colleagues and all the judges, was his high sense of integrity. It was impossible to find a more honest man. It was inevitable that a man of his eminence and distinction should rise to the top of his profession and should receive all the honours that are generally given to eminent lawyers. Your Lordship has referred to all the great honours which he received. He was Advocate General of Bombay

and then Attorney General of India in 1950. As Attorney General he had with him as Solicitor General another very eminent counsel from Bombay, Mr. C. K. Daphtary. These two were a wonderful team and they blazed a trail in the Supreme Court for many years and set an example to the Members of the Bar of sound advocacy, courteous and dignified behaviour and great integrity. For many years they gave great assistance to the Supreme Court Judge to lay down the law of the land. It will be difficult to find such a splendid team again in the Supreme Court. As Your Lordship has recounted, Motilal Setalvad, apart from his practice at the Bar, rendered great service to his country. He appeared for India in the United Nations two or three times. He appeared in Hague Court. He was the President of the Law Commission where some excellent work was done by him. Norms of conduct etc. were laid down for the improvement of the legal profession. My Lords, it was a very great shock indeed when we heard that he passed away. The whole` Bar in India was plunged in grief. My Lords, I would like to end by quoting from a play of Shakespeare and say that "He was a man, take him for all in all, we shall not see the like of him again". On behalf of the Bar Association I would like to tender our sincerest sympathy to the members of his family in their great bereavement.