

~~ADDRESS BY HON'BLE SHRI JUSTICE SWATANTER KUMAR, CHIEF
JUSTICE, HIGH COURT OF JUDICATURE AT BOMBAY, AT THE FULL
COURT REFERENCE TO LATE SHRI MAHENDRA HIRALAL SHAH, SENIOR
ADVOCATE, ON THURSDAY 2nd JULY, 2009.~~

My esteemed colleagues, Mr. Kadam, Advocate General of Maharashtra, Mr. Rajiv Patil Chairman of Bar Council of Maharashtra & Goa, Mr. Kapadia, President of the Bombay Bar Association, Mr. Warunjikar, Vice-President of Advocates' Association of Western India, Mr. Zaiwalla, President of the Bombay Incorporated Law Society, learned Members of the Bar, members of the bereaved family, distinguished Ladies and Gentlemen.

We have assembled here this morning to mourn the sad demise of late Shri Mahendra Hiralal Shah, Senior Advocate practicing in the Bombay High Court and who left for his heavenly abode on May 7, 2009.

Born on December 26, 1926, Shri Shah took his education in Mumbai and obtained LL.B. Degree in 1947. He started practice in the chamber of his father Shri Hiralal Shah who was also a practicing Solicitor in the Bombay High Court.

Within a period of one year, Shri Shah passed the Original Side Examination conducted by the Bombay High Court in 1948. It is said that academically brilliant solicitors could only obtain success in such an examination.

After initially training in Shah & Company - the firm of his father, Shri Shah joined the chamber of Shri S.T. Desai in 1949 and started counsel practice in the said chamber till the elevation of Shri S.T. Desai as Judge of the Bombay High Court.

Even during his days as junior Advocate Shri Shah exhibited the brilliant qualities of profession, hard work and sincerity. Soon he acquired good practice. It is said that he monopolized the practice in the long causes suits, inasmuch as, on one side Shri Shah was appearing and on the other rest of the members of the Bar were appearing. However, he also practiced on writ side,

commercial matters, trademark, copyright and patent matters requiring expertise of a trial court lawyer.

Shri Shah was known for qualities of head and heart. He was always innovative in new ideologies and new laws. He was a voracious reader and meticulous in his work which was reflected from his notings on the briefs. The notings on the brief disclosed the efforts, energy and deep devotion to his work of preparing and studying the matter. It is said that he was a fighter in the court in the sense he would assiduously buttress each and every point in the matter. The erudite qualities of Shri Shah were recognized in the landmark judgment known as "The Rule in Mahendra Shah's case" reported in 76 Bombay Law Reporter 688 in the case of *P. T. Anklesaria vs. Union of India*, in which 50,000 documents were produced in the evidence and hearing took place for 45 days.

Shri Shah had passion for classical music, cinema and cricket. His love for nature was known, as, against the advise of his colleagues and medical advice he undertook journey to Kailas Mansarovar in 1986 at the age of 60 years. Thus, he did not believe the common path chosen by majority of people. He took leading part in cricket match between the Judges of the Bombay High Court and the Advocates.

It is sad that such a multi-faceted personality is no more with us today. His deep devotion to work was so eminent that he died in harness in court no.10. Shri Shah is survived by his wife, two daughters and son Shri Salil who is practicing as Counsel in this Court. In the death of Shri Shah, we have lost a guide and an able counsel. In this hour of grief, on behalf of all of us, I convey our heartfelt condolences to the members of the bereaved family.

May the Almighty give them strength to bear the great loss.

May the departed soul rest in eternal peace.

Address by Shri R.M. Kadam, Advocate General, at the Full Court Reference to Late Mr. Mahendra Shah, Senior Advocate, on 2nd July, 2000.

My Lords, the Chief Justice and other Judges of this Court, Mr. Rajiv Patil, Chairman of the Bar Council of Maharashtra and Goa, Mr. Rohit Kapadia, President, Bombay Bar Association, Mr. Uday Warunjikar, Vice-President, Advocates' Association of Western India, Mr. Zaiwala, President, Incorporated Law Society, and my learned friends.

My Lords, usually the last day before the long summer vacation ensues is a day when all lawyers are happy and excited. This year however was different. On the penultimate day of the term, Mahendra Shah, a distinguished senior counsel and a veritable institution on the Original Side of this Court passed away.

Mr. Mahendra Shah practiced for more than six decades in this High Court and was at the time of his death, one of the few surviving practicing lawyers who had passed the Original Side Advocates' Examination.

After undergoing his pupillage in the chambers of Hon'ble Justice S.T. Desai, Mahendra Shah found his calling in the court where long cause suits were tried. His Mastery on the art of examination and cross-examination of witnesses made him the most sought after Counsel in that court. Indeed, at one stage in almost every single case Mahendra Shah was arrayed as a counsel either for the plaintiff or the defendant.

By the time I joined the Bar in the early 80s, Mr. Mahendra Shah was an established senior counsel in leading practice. By that time, he had substantially switched over from the long causes court to the Miscellaneous court which was though not less taxing was far more lucrative and rewarding than the long causes court.

Mahendra Shah was a part of the triumvirate of counsel who dominated the commercial courts in the 80s and 90s, the other two being J.I. Mehta and G.A. Thakkar.

At that time, the Judge hearing miscellaneous matters not only heard miscellaneous matters, but also chamber summons, company matters, suits for directions and ex parte decrees, contested short causes and adjourned chamber matters. In the miscellaneous court, Mahendra Shah displayed his mastery over diverse subjects ranging from Hindu Law, and property law to trade marks, copyrights and patents.

As a junior counsel, I was extremely to have worked with him on innumerable occasions. Mahendra Shah was one senior who would permit junior counsel to freely express their points of view. If he did not agree with you, he would with a quick smile and few words point out the fallacy in the argument

which had been so passionately built up by the juniors. Working with him was a great learning experience, be it in a conference in his chambers when preparing for a matter or in assisting him in Court.

In the court, Mr. Mahendra Shah was the ultimate gentleman. Yet his gentleness did little to mask his steely resolve to do best for his client. He was and will always remain a true role model for all lawyers.

Whatever Mahendra Shah did, he did with great passion. Whether on the cricket field or in court, he was always 100% involved. He had a passion for reading and had a wonderful collection of books..

In his passing, the Bombay Bar has lost one of its last great titans.

My Lords, on behalf of the Bar and all of us gathered here, I mourn the passing away of Mahendra Shah and offer our condolences to the members of his family.

May his soul rest in peace.

Address by Shri Rajiv Patil, Chairman, Bar Council of Maharashtra and Goa, at the Full Court Reference to Late Mr. Mahendra Shah, Senior Advocate, on 2nd July 2009.

Hon'ble the Chief Justice Mr. Swatanter Kumar and Hon'ble Judges of Bombay High Court, Hon'ble Advocate General Mr. Ravi Kadam, Hon'ble President of Bombay Bar Association Mr. Rohit Kapadia, Hon'ble Vice-President of A.A.W.I. Mr. Uday Warunjkar, Hon'ble President of Incorporated Law Society Mr. Zaiwala, members of Shah family, ladies and gentlemen.

Mahendrabhai Hiralal Shah, the Senior Advocate of this Court passed away on 01st May, 2009 while working in the Court. This High Court has seen a few living legends and legal luminaries and Mahendrabhai Shah was one of them. The man of immaculate character left behind him many memories in the history of this Hon'ble High Court.

Born on 26th December, 1926, Mahendrabhai Shah was the son of a practicing Solicitor late Mr. Hiralal Shah. He completed his school education in Mumbai and graduated in Science from Elphinstone College, Mumbai in 1944. Mahendrabhai Shah was admitted in Government Law College and passed his law education in the year 1947. After graduation in law, he appeared for the examination of Bombay High Court in 1948 and joined the Chambers of the late Justice S.T. Desai in the year 1949.

Mahendrabhai Shah was a great Counsel and was the most sought after. His submissions on law are reported in the Chronicles of Law Reports. He garnered immense knowledge and experience in the legal field. A soft spoken man was a voracious reader and was known for his initiating intellectual interaction with legal luminaries. Because of his industry and brilliance, he had a large practice on the Original Side of the High Court. As aptly described by Bombay Bar Association, he was lawyer in classical mould, temperate, precise, scrupulously honest, fair and gentle with his colleague and juniors unflinching in his defense of his client's cause, he was man of few words. But those words he used were potent and no opponent had ever challenged it.

I had an occasion to meet him with his son Salil and his great cricket. He was the man with no mincing of words. I never thought the man who is so gentle is also firm with his strokes.

He also had various other interests such as in sports and he was a proficient cricketer having played first class cricket since his young age. He played his last cricket match at the age of 81 in the year 2007 when he represented High Court Senior Advocates. He simply loved the game of cricket and he cherished its stateliness, its inbuilt complexity, its demands of intelligence, skill and prowess. He truly played cricket in all walks of life. It is obvious that Mahendrabhai had imparted proper training in the legal field to his children and did not compromise on the upbringing of best advocates to this Bar.

His son Salil is experienced Advocate of this High Court on the Original Side. His daughter Bela is also practicing as a Trade Mark Attorney in New York. Another daughter Biraj is also associated with the law firm Amarchand Mangaldas at New Delhi. His death has caused a major vacuum in the Bombay High Court and I sincerely pray that his soul may rest in peace. I, on behalf of the Bar Council of Maharashtra and Goa convey my sincere and deep condolence to the family of Mahendrabhai Shah.

Address by Mr. Rohit Kapadia, President of the Bombay Bar Association at the Full Court Reference to Late Mr. Mahendra Shah, Senior Advocate, on 2nd July, 2000.

My Lord the Chief Justice, Hon'ble Judges of this Court, my friends sitting here with me today and my friends at the Bar, ladies and gentlemen.

The law, an old adage says, is a demanding mistress. It makes ferocious demands on your time. And yet, many lawyers do find the time to pursue some other interests, be it in reading, be it in music, etc. but very few have the ability to engage successfully in more than one pursuit. Mahendra Hiralal Shah was one of that select band. Law, cricket, reading, classical music, cinema, nature, his sheer range was awe-inspiring and his relentless pursuit of his interest enough to exhaust most.

Born on 26th December, 1926, he was educated at the Master Tutorial High School and Elphinstone College in Mumbai where he studied Science. He graduated in 1944, joined Government Law College the following year and obtained his Law Degree in the year of the country's independence, 1947.

In those days, to practice on the Original Side, one needed to pass the Original Side Examination. To put it very mildly, it was very difficult task to do so. Unlike modern trends, it was entirely merit based. Not many were successful in that examination. Mahendrabhai passed at his very first attempt in 1948. For a few years, he trained in his father's firm, *Mis. Shah and Company* and then took up counsel practice with Mr. S.T. Desai who was later became an eminent Judge of this Court.

Mahendrabhai developed a thriving practice in three Courts that then constituted the Original Side, most especially he was known in the long causes COULT. Very often Mahendrabhai was on one side and rest of the Bar on the other side. He was equally comfortable in the writ court, in commercial COULTs or as the Advocate General told you in intellectual property disputes. But his forte, however, was in the trial and commercial courts, which he dominated. He was a fearless Advocate of his client's cause but never unfair to an opponent or a Court. In the thrust-and-parry of litigation, there were often heated exchanges and Mahendrabhai was not known to pull his punches or to run from the field. But it never carried out and juniors of those days- today themselves senior counsel of this court- tell of the time when he and that other legal Colossus, Fali Nariman, would battle each other in some matter, neither giving a quarter and then during the recess proceed to lunch together over the most convivial conversation. Juniors too benefitted from an association with him, for he was always gentle with them, joining them in banter and laughter with his twinkling eyes full of mischief and his self-deprecating smile, and always available to them for guidance on some point of law.

His disagreement with a particular Judge was well known at the Bar. When asked whether he was still in that Court, he said I will continue to appear in that Court. But when asked a few years later that same Judge said Mahendra Shah was the best Counsel appeared before him. Truly, an open minded Judge and truly a great and gutsy Advocate.

He took silk in 1980, late by today's hurried standards, but very much the norm in those days. It was well-deserved and befitted his legal stature, but he wore his success lightly and without a trace of arrogance. It also did nothing to diminish his verve for his practice, or his painstaking and assiduous preparation. Our Solicitor friends recall that when a matter was over and he returned his brief, they would find the entire brief filled with his marginal notations. Practice on:the Original Side being what it is. We had an occasion to be briefed in a matter which was earlier handled by Mahendra Shah. When the brief was sent back, our task was much easier because important dates were already marked in the brief.

Formidable though these achievements were, they never dimmed his passion for his other interests, which he continued to pursue through his life. He was a voracious and discerning reader and his reading straddled a range of genres, from the classics to contemporary fiction and non-fiction. His love for cricket was legendary. He was a very fine batsman, as some of our Judges witnessed first hand a few years ago at the Police Gymkhana and his knowledge of the game was encyclopedic. This passion he passed on to his son, Salil, who was himself once considered as a probable for India XI. His love for classical music and cinema was immense. He is probably the only person at the pleasure of glory studied little bit Bengali language and saw Bengali films more. During one court vacation he saw three films in a single day because they were unlikely to continue much longer and he did not want to miss a single one.

He revelled in nature's beauty. Whenever he got a chance to travel on work, he made it a point to see if he could venture off on a trek or a nature walk.

Mahendrabhai left us on 7th May, 2009 in circumstances that are the envy of all professionals everywhere, perhaps most of all practising lawyers. In his gown, brief in hand, in the very court where he spent the better part of his life, undeterred by early morning expressions of concern about health from the family, he went off to Court to continue doing what he had done for the last six decades argued his case. Who could ask for a more fitting, a more dignified, a more gracious exit from life's stage.

In the death of Mahendra Shah, the Bar has lost and is greatly impoverished by that loss. He was one of the few who understood that law is best practiced, cricket best played and life most fully lived when done without sacrificing integrity and honesty. In his passing, we have lost a fine lawyer, a true gentleman and a decent and kind man. Gone he is forgotten he never will be.

On this occasion, on behalf of the Bombay Bar Association and on behalf my friends at the Bar. I extend our heartfelt condolences to the members of the bereaved family and I sincerely hope that his soul may rest in peace.

Address by Mr. Uday Prakash Warunijkar, Vice-President of the Western India Advocates Association, at the Full Court Reference to late Mr. Mahendra Shah, on 2nd July, 2000.

Hon'ble Chief Justice, Mr. Justice Swatanter Kumar and other Hon'ble Judges of this Hon'ble Court, Mr. Ravi Kadam, Advocate General of Maharashtra, Mr. Rajiv Patil, Chairman, Bar Council of Maharashtra and Goa, Mr. Rohit Kapadia, President, Bombay Bar Association, Mr. Zaiwala, President, Incorporated Law Society, members of the family of late Mr. Mahendra Shah, my colleagues at the Bar, ladies and gentlemen,

When this Court was about to close for summer holiday on 8th May, 2009, nobody even thought that 11th May, 2009 would be a black day for all of us on account of loosing the gem of legal fraternity Mr. Mahendra Hiralal Shah. On behalf of my colleagues and the members of Advocates Association of Western India, I fully associate myself with the sentiments expressed by my Lord the Chief Justice of our High Court and other distinguished speakers.

Late Mr. Mahendra Shah, who born as a son of a Solicitor practicing in this Hon'ble Court and joined profession in 1947-48. Because of his hard work, honesty he was seen on one side or other in matters before the Court taking long cause suits. He was always quick in grasping the facts and his court craft was remarkable. He was a fearless Advocate who was ready to do the experiments and implementing new ideas. His innovative thoughts were welcomed by the Bench also.

His sound knowledge of law gave him a prominent position in the Bar. He was always helping junior Advocates and therefore his table was flooded with juniors. This Court also recognized his all round merit and designated him as a Senior Advocate. He handled writ matters, commercial matters including trademark, copyright and patent matters.

Mr. Shah was not only a distinguished lawyer but also a good human being. He maintained highest standard in his professional as well as personal life. He was a successful trekker who completed Kailas Manassarovar treck at the age of 60.

Today Mr. Shah is not with us but his ideas and path shown by him will remain always with us.

On behalf of AAWI, I express my heart felt condolences to the family members of Mr. Shah.

May the noble soul rest in peace.

Address by Shri Dinsoo Zaiwalla, President, Bombay Incorporated Law Society,
at the Full Court Reference to late Mr. Mahendra Shah, on 2nd July, 2009.

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. Rajiv Pati!, Chairman of the Bar Council of Maharashtra and Goa, Mr. Rohit Kapadia, President of the Bombay Bar Association, Mr. Uday Warunjikar, Vice-President of the Western India Advocates Association, members of the family of Senior Counsel Mr. Mahendra Shah and my colleagues at the Bar.

On behalf of the Incorporated Law Society and the fraternity of Solicitors I am called upon to convey our members grief on the sad demise of Senior Counsel Mahendra Shah who departed from us on 2nd May, 2009.

With respect, I concur with the sentiments so eloquently expressed by the learned Chief Justice and the learned speakers before me.

Words do not leave the powers to convey the many facets of Advocate Mahendra Shah, a doyen of the Bombay Bar.

In the early days when I was articled for Solicitors examination, my office was adjacent to the Chamber of Mahendra Shah. Incidentally his residence was stone throw from my parental residence. I, therefore, had the fortune of contacting Mahendra Shah progressively rising to the pinnacle at our Bar appearing against leading counsels of the day. His preparation of his brief was detailed to the last in immaculate handwriting which reflected in thorough preparation with the result he could deliver his arguments fluently with remarkable clarity and with sharp diction.

We cannot forget his sonorous voice and his winsome smile. Mahendra Shah is no longer with us but his spirit survives and his sonorous voice will keep vibrating in silence in these courts where he performed to excellence.

The great divine force which governs all of us gives each one of us our allotted time span. From the time we are born we commence our journey till death meets us. Mahendra Shah has journeyed well and will do well for the next journey. As one of the famous bard said "Our exit out of the world is nobody known where, but if we do well here we shall do well there".

We are fortunate that Mahendra Shah leaves to the profession the talent of his daughters Bela and Biraj and his sort Salil, all of whom are making a mark in the profession.

On behalf of the Bombay Incorporated Law Society and the fraternity of Solicitors, I convey our grief to Shakuntalaben and all the members of the family and pray that nature will give them the strength to bear this irreplaceable loss. May his spirit remain in peace and with us in guidance.