

**ADDRESS BY HON'BLE THE CHIEF JUSTICE SHRI D.K. UPADHYAYA
AT THE FULL COURT REFERENCE IN MEMORY OF LATE SHRI BOMI
RATANSHAW ZAIWALLA, SENIOR ADVOCATE, ON 21ST FEBRUARY,
2024 AT 10 A.M. IN ROOM NO.46, CENTRAL COURT HALL, MAIN
BUILDING, HIGH COURT, BOMBAY.**

My esteemed Sister and Brother Judges,

Dr. Birendra Saraf,
Advocate General of Maharashtra,

Dr. Uday Warunjikar,
Member, Bar Council of Maharashtra & Goa,

Mr. Nitin Thakker,
President, Bombay Bar Association,

Mr. Kuldeep Patil,
Secretary, Advocates' Association of Western India,

Ms. Ferzana Behramkamdin,
President, Bombay Incorporated Law Society

**Esteemed Senior Advocates and other learned members of the
Bar,**

Bereaved members of Zaiwalla family,

Members of the Registry and the staff,

Ladies and Gentlemen!

We have assembled here this morning to pay tribute to late **BOMI RATANSHAW ZAIWALLA**, a distinguished Senior Advocate of the Bombay High Court, who left for his heavenly abode on 14th July 2023, at the age of 91 years.

Late Bomi Zaiwalla, was one of the six siblings, born on 8th August 1932 in the family of Nargis and Ratanshaw Zaiwalla. His father, Ratanshaw Zaiwalla, a qualified Solicitor in the United Kingdom, returned to India and established Zaiwalla & Co. in Mumbai. All the brothers

established their career in law, while their sister pursued medicine and became a Doctor in the United Kingdom.

Late Zaiwalla's formative years were spent in Mumbai. After his schooling and college at St. Xavier's, he pursued his passion for law and joined the Government Law College at Mumbai. Upon completing his graduation in law, he got enrolled as an Advocate on 15th November 1957. He began his practice by joining the chambers of the esteemed Jurist and Senior Advocate, late Fali Nariman, whom unfortunately we lost when he breathed his last night while in sleep. Known for his innate analytical acumen and humble demeanor, late Zaiwalla quickly made his mark within the legal community. He swiftly established a robust practice, earning a formidable reputation as a skilled lawyer.

Late Zaiwalla's legal competence and expertise was showcased through his extensive advocacy in countless matters before the Hon'ble Supreme Court of India and several High Courts including those in Bombay, Gujarat, Delhi, Madras, and Kerala. He held the esteemed position of being on the panel of Special Counsel for the Government of India at the Bombay High Court.

His journey in the legal realm saw him being designated by the Bombay High Court as a Senior Advocate on 13th September 1984, marking a significant milestone in his career.

Some of the notable briefs of late Zaiwalla included representing the Government of Japan in the Japan Airlines Air Crash Enquiry before the Delhi High Court; as a Counsel for German Airlines in the Lufthansa Air Crash Enquiry at the Delhi High Court; as a Counsel for Union Carbide, USA, in the Bhopal Gas Tragedy case, both in the Madhya Pradesh High Court and the Supreme Court of India. He also represented the State of Maharashtra in significant legal matters, including appearing before the Inter-State Narmada River Water Dispute Tribunal, which involved

complex water disputes between the States of Gujarat, Rajasthan, Madhya Pradesh, and Maharashtra.

I am informed that late Bomi Zaiwalla loved teaching law and precisely, therefore, from 1966 to 1971, he served as a Professor at the Government Law College, University of Bombay, where he taught Private International Law, Contract Law, and the Law of Torts.

As a seasoned Counsel, he participated in a wide array of national and international arbitrations, including ICC Arbitrations held in London, Zurich, Dublin and Bangalore. Notably, he also served as a Co-arbitrator in the ICC Arbitrations.

In addition to his legal practice, late Zaiwalla was an esteemed member of the Chartered Institute of Arbitrators in London. He was also a member of The Law Association for Asia and the Pacific, and showcased his commitment to the development of international legal co-operation and standards.

His legal acumen and dedication are evidenced by a significant number of reported judgments to his credit, as an arguing Counsel in various Courts across the country. Renowned for his fearless and forthright demeanor, late Zaiwalla approached each case with determination and integrity, earning immense respect within the legal community and beyond. Late Zaiwalla's exceptional skills and expertise propelled him to become one of the most sought-after Senior Advocates in the Bombay High Court.

Apart from his illustrious legal career, late Zaiwalla had a profound passion for religious pursuits. Although devout in his own faith, he displayed a keen interest in the philosophical and spiritual teachings of other religions. He immersed himself in the study of non-fictional historical literature, with a particular fondness for works detailing the

intricacies of the two World Wars and writings concerning the then British Premier, Winston Churchill.

I am informed that late Zaiwalla's greatest passion was in travelling and discovering new territories, more particularly amidst the mountains. In his youth, he used to take numerous school excursions during the summer holidays, to various destinations across the country. Among these, Kashmir held a special place in his heart, where he often visited on family vacations. However, with a halt in travel to Kashmir in the 1980s, he ventured into other mountainous regions for his summer retreats and ultimately found comfort in Chamonix in the French Alps. His adventurous spirit made him an active Scout and be a part of the 13 East Bombay Scout Group, a role he cherished for many years.

Late Zaiwalla is survived by his wife, Jeroo and their two daughters, Ryna and Rea, who all stay in Mumbai. Tragically, their son Rushad passed away in 2015, leaving behind cherished memories in the hearts of his family.

Ryna has established herself as a professional in the legal field and currently serves as a partner at ALMT Legal, Advocates and Solicitors. Meanwhile, Rea, also a lawyer, holds an esteemed position as Head Legal Counsel, India at BNP Paribas.

On behalf of my Sister and Brother Judges, and also on my personal behalf, I extend sincere and heartfelt condolences on the demise of late Bomi Zaiwalla. May his family members find solace and strength during this difficult time. May the departed soul find eternal peace and tranquillity.

OM SHANTI!

ADDRESS BY DR. BIRENDRA SARAF, ADVOCATE GENERAL OF MAHARASHTRA AT THE FULL COURT REFERENCE IN MEMORY OF LATE SHRI BOMI RATANSHAW ZAIWALLA, SENIOR ADVOCATE, ON 21ST FEBRUARY, 2024 AT 10 A.M. IN ROOM NO.46, CENTRAL COURT HALL, MAIN BUILDING, HIGH COURT, BOMBAY.

The Hon'ble Chief Justice

Hon'ble Judges of this Court

Dr. Uday Warunjikar,

Member, Bar Council of Maharashtra & Goa,

Mr. Nitin Thakker,

President, Bombay Bar Association,

Mr. Kuldeep Patil,

Secretary, Advocates' Association of Western India,

Ms. Ferzana Behramkamdin,

President, Bombay Incorporated Law Society

Esteemed Senior Advocates and other learned members of the Bar,

Bereaved members of Zaiwalla family,

Members of the Registry and the staff,

Ladies and Gentlemen!

A life well lived needs to be celebrated and the spirit with which Mr. Bomi Zaiwalla led his life is really an example of how a fulfilling and balanced life should be led.

I fully associate myself with the sentiments expressed by my Lord the Chief Justice. Mr. Zaiwalla in his early childhood was a King Scout – the highest level in the Boy Scouts. He often recalled his overnight trek from Mumbai to Nashik to earn his King's scout badge. Scouting instilled in him a sense of adventure and discipline. Being an avid fan of the game of cricket, to him, a big benefit of being a Boy Scout, was being deployed

on duty in Brabourne Stadium during a cricket match, when he could also watch the match.

My Lord the Chief Justice has mentioned about the illustrious career of Mr. Zaiwalla and I will not repeat them except to add that he also successfully represented the Government of India as a Special Counsel at the Bombay High Court in many matters, including in the famous case of Minoo Balsara, involving questions relating to the interplay between the Public Premises Act and the Rent Act. As My Lord the Chief Justice mentioned, he also represented the State of Maharashtra in various water disputes.

He successfully argued the landmark case of Ramesh Himmatlal Shah v. Harsukh Jadhavji Joshi, (1975) 2 SCC 105, which held that a member's right to occupy a flat in a cooperative society is attachable and saleable property.

He argued a number of cases before the High Court of Bombay at Goa where he also argued several cases relating to the Portuguese Law. He also appeared in a hotly contested dispute regarding the affairs of the Bombay Parsi Panchayat and the procedure for appointment of President.

His one great passion was travel, both for work and for leisure. To further his fondness for travel, he acted as a "Tour Leader" for many tours of M/s.Lala Travels & Tours, to various hill stations in India. He was extremely popular with the travellers in his Group. But, his travels with his family were by far the most important to him. He believed that real education came from life experiences and to him, holidays were life experiences which allowed him to bond with his family - whether they were trips to Udwada, Surat and Navsari to pay homage to the various Atash Behrams or to Chamonix in the French Alps.

Mr. Zaiwalla was a man with a spiritual bent of mind. As a young boy, he had gone with his father to Tiruvannamalai to the Ashram of the great sage, Ramana Maharshi. His meeting the great man made a lasting

impression on him. In fact, one of his favourite books was "A Search in Secret India" by Paul Brunton, which included much material on the Ashram.

As a senior, he was a very easily approachable person and very encouraging to juniors. Many junior advocates would approach him with their legal problems and he would spend time with them, patiently explaining the nuances of law. No wonder, his juniors rose to great heights in the profession, including senior advocates, judges of our Court, including Mrs. Roshan Dalvi, who is present today and also Mr. Rohinton Nariman, who was with him for a short time when he was practising in Mumbai and thereafter, became a Judge of the Hon'ble Supreme Court.

He had an extremely genial and pleasant personality. He was a gentle soul who was always ready to help those less fortunate than him. He would never turn away people who came to him for help. When told that someone was taking advantage of his kindness, he would only say that the fact that people needed to resort to such things was in itself unfortunate and thanked his good fortune that he could be of help.

His was a family of lawyers as My Lord the Chief Justice mentioned. All his four brothers are lawyers and both his daughters, Ryna and Rea are also lawyers.

In the passing away of Mr. Zaiwalla, we have lost not just an illustrious senior but a very kind person and a very encouraging professional who moulded the life and destiny of the next generation of lawyers.

On behalf of the State of Maharashtra and all my fellow lawyers, I express my heartfelt condolences to the family of Mr. Zaiwalla and pray his soul rests in eternal peace.

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ADDRESS BY DR. UDAY WARUNJIKAR, MEMBER, BAR COUNCIL OF MAHARASHTRA & GOA AT THE FULL COURT REFERENCE IN MEMORY OF LATE SHRI BOMI RATANSHAW ZAIWALLA, SENIOR ADVOCATE, ON 21ST FEBRUARY, 2024 AT 10 A.M. IN ROOM NO.46, CENTRAL COURT HALL, MAIN BUILDING, HIGH COURT, BOMBAY.

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Esteemed Senior Advocates and other learned members of the Bar,

**Bereaved members of Zaiwalla family,
Members of the Registry and the staff,
Ladies and Gentlemen!**

I fully associate myself with the feelings expressed by the Hon'ble Chief Justice and earlier speakers.

On behalf of the Bar Council of Maharashtra and Goa, which represents 2,40,000 lawyers spread in the State of Maharashtra as well as the State of Goa and two Union Territories, I express our deepest condolences to the family members of late Senior Advocate Shri. Bomi Zaiwalla.

Sir, I am not that fortunate as I could not get an opportunity to practice along with Shri. Zaiwalla, nor have I seen him active in the Court of law because I got my sanad in the year 1994. But I am told that he comes from a family where all his family members are either Solicitors

or Counsels. Sir, you are aware that the Bar Council of Maharashtra and Goa is established under the Advocates Act, 1961, but Shri Zaiwalla got his Sanad under the then Act on 15th November 1957. He joined the Chamber of Senior Advocate Fali Nariman and later on, in the year 1983-1984, he was designated as a Senior Advocate by our High Court.

I have been told that initially, Shri. Zaiwalla was known as Company lawyer. Later on, apart from Company Law, he was known as a stalwart in the field of environment law and Portuguese law. Apart from the Bombay High Court, he had practised before different High Courts and the Supreme Court. We are aware that prior to 1984, so far as Goa is concerned, there was a Court of Judicial Commissioner and late Shri Bomi Zaiwalla had conducted various matters before the Court of Judicial Commissioner at Goa prior to establishment of Bombay High Court at Goa. One of the cases which went upto the Supreme Court was a case of decree of eviction against Morarjibhai Desai where the suit property involved was from Mumbai. That case was fought by late Shri Bomi Zaiwalla.

There are several judgments which have been delivered at High Court of Bombay at Goa in which he had appeared. Those judgments were about the Goa, Daman Diu Land Revenue Code; the Goa, Daman Diu Administration of Evacuee Property Act as well as Goa Portuguese Code. Late Shri Zaiwalla is survived by his daughter who is a lawyer and the son-in-law who is also a lawyer.

On behalf of the Chairman of the Bar Council of Maharashtra and Goa, Vice-Chairman, BCI Members and all other approximately 2,40,000 lawyers, I offer our deep condolences to the family members of late Shri Bomi Zaiwalla.

Let his soul rest in peace.

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ADDRESS BY SHRI. NITIN THAKKER, PRESIDENT, BOMBAY BAR ASSOCIATION AT THE FULL COURT REFERENCE IN MEMORY OF LATE SHRI BOMI RATANSHAW ZAIWALLA, SENIOR ADVOCATE, ON 21ST FEBRUARY, 2024 AT 10 A.M. IN ROOM NO.46, CENTRAL COURT HALL, MAIN BUILDING, HIGH COURT, BOMBAY.

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Bereaved members of Zaiwalla family,

Members of the Registry and the staff,

Ladies and Gentlemen!

Today, we have gathered here to remember and pay our respects to our esteemed former member and a stalwart Mr. Bomi Zaiwalla, who was popularly known as 'Bomi', who left for heavenly abode on 14th of July, 2023.

I associate myself with the tributes paid to Bomi by my lord the Chief Justice, the learned Advocate General and Dr. Warunjikar.

Bomi was soft spoken, kind and a gentle soul. I have never heard him arguing with loud voice or getting angry at anyone. We must celebrate his life and not mourn.

Bomi had amassed a large practice on Original Side appearing in Company matters, Constitutional matters, Testamentary matters and various Suits - commercial and otherwise. In chambers of Mr Fali Nariman, the doyen of the Bar, he flourished.

While referring to Bhopal Gas Leak Tragedy litigation in his autobiography "Before Memory Fades", where Mr. Nariman recounts that they have appeared from trial court onwards to Supreme Court, Mr Fali Nariman has paid compliments to Bomi in these words; 'The Gas leak Tragedy occurred in the factory of UCC's Indian subsidiary in Bhopal in December 1984. I was engaged at the end of 1985 as lead Senior Advocate and appeared with my able junior and chamber-mate Bomi Zaiwalla. A great recognition!

I sent an email yesterday to Mr. Nariman sending the link of today's reference. I received an email from him in the evening at 4.45 pm, in which he sent a scanned copy of a signed letter in which he has written, he deeply appreciated that the Bombay High Court is giving Reference to Mr. Bomi Zaiwalla.

When the Goa bench of the High Court was established, Bomi was most sought after by mining lobby of Goa. He quickly became a recognizable figure, resonating deeply with the local community. His appearances did not confine to only mining litigation but his commitment to the welfare and development of Goa led to his appearances in the matters relating to environmental issues arising out of the proliferation of luxury hotels in the name of tourism and several other matters. He effortlessly integrated into the local fabric, endearing himself to residents and earning their respect.

His passion for alternate dispute mechanisms, particularly mediation and arbitration even before 1996 Act, set him apart. Bomi actively encouraged parties to consider these options, emphasizing the importance of resolving disputes amicably. His role in advancing the

development of arbitration in India, as a member of organizations has already been mentioned by My Lord the Chief Justice.

As a co-arbitrator in numerous international arbitration cases, including those involving Ethypharm SA from France and CDC Financial Services, Mauritius, Bomi's integrity and impartiality were widely acknowledged. His frequent appointments as an arbitrator reflected the trust placed in his capabilities. He conducted several arbitration proceedings in London, Zurich and Dublin. One of his celebrated ICC International Arbitration cases, representing Akay Industries, an Indian company against Warman International Ltd., in which he succeeded in getting a favourable award relating to the questions of technological transfers by foreign companies to Indian Companies after the licence period had expired.

My learned friend, the Advocate General, has already mentioned about his appearances in Ramesh Himmatlal Shah matter but he also argued important point relating to public trust in Nizam's Jewels case. His commitment to the legal profession was unwavering. He refrained from engaging in frivolous cases and firmly believed in upholding the principles of law. Mr DeVitre, his junior, narrated one incident to me that Bomi was once faced with a piquant situation when a very senior attorney, Mr Soli Morris, of Little & Co had briefed him in a testamentary matter on behalf of 2 sisters. After studying the brief, Bomi opined that there was no case either on facts or in law. The attorney agreed but insisted that Bomi should argue on emotions and convince the judge to rule in favour of his clients. Bomi returned the brief saying that in law college, he had not been taught how to argue a case on emotions, divorced from the law and facts.

His dedication extended beyond the courtroom. He was deeply religious person and visited Agiary almost every day. He appeared *pro bono* in many community matters and was almost single-handedly responsible in establishing Pundole Agiary in Udvada, succeeding against

great opposition guiding his clients through a maze of legal proceedings before Gujarat High Court and Supreme Court.

In the face of prolonged illness, Bomi demonstrated resilience and strength. Bomi always credited his wife Jeroo for his success. Their association was of 70 years - including 7 years of courtship and their support system was always in thick and thin. Bomi was a family person. Being the eldest of 6 siblings, he looked after his younger brothers by standing with them in difficult times including providing for their education abroad. He raised his two daughters Ryan and Rea, both lawyers – one, a partner in law firm 'ALMT Legal' and another Head Legal Counsel in BNP Paribas. His peaceful passing away marks the end of an era, but his legacy will endure as a testament to his remarkable life and contributions.

His legacy of integrity, dedication, and unwavering commitment to justice will continue to inspire generations of legal professionals. He will be deeply missed by all, who had occasion to appear with and against him in several matters. Further, those who had the privilege of knowing him, will not forget his fairness.

Bombay Bar Association had organized a function to honor our members who had completed *inter alia* 60 plus years at the bar. To invite Bomi to attend, I called his residence and Jeroo informed me that he was not in a position to travel. A few days before the function alas, we received the news of his sad demise. Bomi, we will miss you.

I pray to Almighty that his noble soul achieves eternal peace and grants solace to the family members.

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ADDRESS BY SHRI KULDEEP PATIL, SECRETARY, ADVOCATES' ASSOCIATION OF WESTERN INDIA AT THE FULL COURT REFERENCE IN MEMORY OF LATE SHRI BOMI RATANSHAW ZAIWALLA, SENIOR ADVOCATE, ON 21ST FEBRUARY, 2024 AT 10 A.M. IN ROOM NO.46, CENTRAL COURT HALL, MAIN BUILDING, HIGH COURT, BOMBAY.

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Esteemed Senior Advocates and other learned members of the Bar,

Bereaved members of Zaiwalla family,

Members of the Registry and the staff,

Ladies and Gentlemen!

Today, we have assembled here to pay homage to late Senior Advocate Shri. Bomi Zaiwalla, who left for heavenly abode on 14th July 2023.

At the outset, I completely associate myself with the sentiments expressed by the Hon'ble Chief Justice and the earlier speakers. Though I had no opportunity to work with Shri Zaiwalla, but what I gathered with my conversation with Senior Advocates at the Bar, I wish to add a few words.

Late Senior Advocate Shri Bomi Zaiwalla possessed a great legal acumen and wide knowledge in various fields of law. His contribution to the cause of justice is immense. His death is not just a loss to the legal fraternity and his family, but to the society at large.

On behalf of Advocates' Association of Western India and on my personal behalf, I express my heartfelt condolences to the family members and friends of late Senior Advocate Shri Bomi Zaiwalla.

May his soul rest in peace.

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ADDRESS BY MS. FERZANA BEHRAMKAMDIN, PRESIDENT, BOMBAY INCORPORATED LAW SOCIETY AT THE FULL COURT REFERENCE IN MEMORY OF LATE SHRI BOMI RATANSHAW ZAIWALLA, SENIOR ADVOCATE, ON 21ST FEBRUARY, 2024 AT 10 A.M. IN ROOM NO.46, CENTRAL COURT HALL, MAIN BUILDING, HIGH COURT, BOMBAY.

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Ladies and Gentlemen!

It is indeed an uncanny connection that on the day that we stand here to give a reference to our Senior Counsel Mr. Bomi Zaiwalla, we also hear about the news of passing of his Senior late Mr. Fali Nariman. He and Bomi will be sorely missed not by their family members but by all at the Bar and by all of us. Mr. Bomi Zaiwalla was the eldest of five brothers, all of whom became successful lawyers, two of whom qualified and are practicing as Solicitors. Their father, Ratanshaw Zaiwalla, was a Solicitor and the Founder of Zaiwalla and Company. Bomi's sister qualified and practiced as a Pediatric Neurologist.

Bomi's education, as My Lord Chief Justice said, started at St. Xavier's School and thereafter, went on to St. Xavier's College and thereafter, Government Law College from where he qualified as a lawyer.

He joined the Chambers of Mr. Fali Nariman and assisted him in various matters including the very high-profile Narmada Water Dispute as also the Bhopal Gas Tragedy case.

He was designated as Senior Advocate in 1984. A large part of Bomi's practice, in addition to being in the Bombay High Court, was also in the Supreme Court and before High Court of Bombay at Goa.

Bomi was extremely hardworking and thorough in the preparation of his matters. His arguments were precise and to the point. He was always soft-spoken and a real gentleman. Briefing him in a matter was always a pleasure and devoid of stress as he would have read the matter and prepared thoroughly, both on the facts and the law.

He truly followed the tenets of the Zoroastrian religion, good words, good thoughts and good deeds and he practised that every day of his life.

Bomi, over the years, trained several juniors including Justice Rohinton Nariman, Justice Roshan Dalvi, Senior Counsel Mr. F.DeVitre and Mr. Erach Kotwal and others.

Bomi is survived by Jeroo, his wife for over 60 years and his daughters Ryna, who is a Partner with a Solicitor's firm and Rea, who is the Head Legal, India, of BNP Paribas.

Bomi leaves a rich legacy behind him and he will be sorely missed by all of us.

On behalf of the Bombay Incorporated Law Society and on my personal behalf, I extend my heartfelt condolences to the bereaved family and pray that his soul rests in eternal peace.
