

FAREWELL SPEECH ON THE RETIREMENT OF
HON'BLE MS. JUSTICE REVA KHETRAPAL
DELIVERED ON 22.09.2014

G. ROHINI
CHIEF JUSTICE

Justice Reva Khetrapal,

My esteemed brother and sister colleagues,

Shri Rajeev Khosla, President, Delhi High Court Bar Association,

Shri Sanjay Jain, Additional Solicitor General,

Shri K.K. Manan, Chairman, Bar Council of Delhi,

Shri Puneet Mittal, Hony. Secretary, Bar Council of Delhi,

Shri Jatan Singh, Vice-President, Delhi High Court Bar Association,

Shri Abhijat, Hony. Secretary, Delhi High Court Bar Association,

Ms. Zubeda Begum, Standing Counsel (Civil), Govt. of NCT of Delhi

Shri Salim Ahmed, Standing Counsel (Criminal), Govt. of NCT of Delhi

Other Standing Counsel of the Central and State Government,

Executive Members of the Delhi High Court Bar Association,

Office-bearers of other District Bar Associations,

Senior Advocates,

Members of the Bar,

District & Sessions Judges,

Family members of Justice Khetrapal, and

Ladies and gentlemen.

We have assembled here today to bid farewell to yet another dearest colleagues of mine - Justice Reva Khetrapal, who is demitting office today after more than eight years of service to this court.

Born on 23-09-1952 at Shimla, she completed schooling from Convent of Jesus and Mary, New Delhi and graduation from Miranda House in History (Hons.). She was awarded gold medal and best student certificate from the Law Faculty, University of Delhi. She enrolled as an Advocate with the Bar Council of Delhi in the year 1975.

Justice Khetrapal practiced in Delhi High Court and Supreme Court of India from the year 1975 to 1991 as a corporate lawyer and for a number of years as a counsel for Delhi Administration and dealt with a large number of constitutional, civil and criminal matters.

Justice Khetrapal was appointed as Additional District & Sessions Judge in the year 1991 and was posted as Special Judge (Narcotics) in the year 1994. She was appointed as Secretary, Press Council of India in the year 1999. During her tenure as Secretary, Press Council of India, she participated in

several national and international conferences relating to the Media and the Law and worked as Executive Member of World Association of Press Councils.

Justice Khetrapal elevated to the Bench of Delhi High Court as an Additional Judge on 28.02.2006 and became the permanent Judge on 25.04.2007.

Justice Khetrapal demonstrated a personal standard of ethical conduct that stands out among both the general citizenry as also the fellow practitioners. Throughout her judicial career, she has exhibited patience, open-mindedness, courtesy, tact, courage, firmness, understanding, compassion, humility and common sense, which are the main aspects of proper judicial temperament. She displayed both courage and integrity and remained uninfluenced by the identity, race, gender, political status, wealth or relationship of the party.

Her character encompasses both the ability to apply the law to the facts and to understand how a judicial decision will affect the human beings appearing before the court. Her ability to communicate with counsel, witnesses and parties calmly and courteously and her willingness to listen to and

consider what is said on all sides of a debatable proposition are admirable.

The goal of the courts is to provide fairness, respect and dignity to the people who come before it. A judge is a pillar of our entire justice system and the public expects highest and irreproachable conduct from anyone performing a judicial function. Law being extremely subjective, a judge has to take all the social realities into account and decide with compassion. At the same time, provisions of law also cannot be lost sight of. This fine line is something which cannot be forgotten and Justice Khetrapal followed that line throughout her judicial career.

Dispensation of justice is an attribute of the Creator. For institutional and sustainable democracy, rule of law and good governance, there is no alternative to a qualified and qualitative judge and I sincerely admire the said qualities of Justice Khetrapal.

In the course of her judicial career so far, Justice Khetrapal has delivered various landmark judgments and decisions in many spheres of law.

In ***Union of India v. Videocon Industries Ltd.*** reported in 2012 (129) DRJ 396, the issue arose was whether the decision of the highest court of law in India be allowed to be re-examined by a Court of foreign jurisdiction. Discussing the parameters and the law relating to anti-suit injunctions, it was held that the initiation of proceedings by the Defendant in the High Court of Justice, Queens Bench Division, Commercial Court, London during the pendency of the Special Leave Petition before the Supreme Court of India was unconscionable, vexatious and oppressive and an abuse of the process of law and the Plaintiff's case satisfied the tripartite test of prima facie case, balance of convenience and irreparable injury, and thus it was a proper case for grant of a temporary injunction in favour of the Plaintiff and restraining the Defendant from pursuing its claim in the High Court of Justice, Queens Bench Division, Commercial Court, London against the Plaintiff – Union of India.

In ***Bhola Nath Viz v. Karan Kanwar Singh*** reported in 2011 (121) DRJ 584, it was held that in an election petition it is sufficient to aver that material concealment of facts by the

returned candidate has materially affected the election of the Petitioner. It was held that whenever a proper disclosure is not made in a nomination paper on affidavit, it is bound to result in affecting the purity of the election process. It was further held that it was sufficient if the election petition contained a concise statement of '**material facts**' on which the Petitioner relies to prove his cause of action, but where the Petitioner alleges corrupt practices, he should also set forth '**full particulars**' of the said corrupt practices.

In *Kensoft Infotech Ltd. v. R.S. Krishnaswami and Ors.*, (2007) ILR 1 Delhi 308, it was held in a suit for permanent injunction, restraining infringement of copyright, breach of confidence, damages and rendition of accounts of profits that even if a small fraction of cause of action accrued within the jurisdiction of a High Court, said High Court would have jurisdiction in the matter. However in appropriate cases it could refuse to exercise its discretionary jurisdiction by invoking doctrine of forum conveniens particularly in case where proceedings were in a forum which was "oppressive or vexatious to Defendant or in a forum non-conveniens". It was

thus held that High Court was not an appropriate forum for trial of the suit and doctrine of forum non-conveniens was squarely attracted and the plea raised by way of demurrer by Defendants that this High Court had no territorial jurisdiction to entertain the present was upheld.

In ***Rashtriya Chemicals and Fertilizers Ltd. v. State Bank of Patiala*** reported in (2008) 81 SCL 461 (Delhi), a question arose as to whether the bar created by Section 22 of the Sick Industrial Companies (Special Provisions) Act (1 of 1986 as amended by Act No.12 of 1994) will apply to a suit invoking a bank guarantee, executed by the bank to secure payment for supply of goods to an industrial company which stands referred to the Board for Industrial & Financial Reconstruction (BIFR). It was held that the object of SICA being to revive and rehabilitate industries that had gone sick on account of economic and other related reasons and as such any narrow construction to the words of Section 22 would render the provision nugatory and defeat the remedial object sought to be achieved. It was further held that the suit cannot be labelled as a suit for enforcement of a guarantee in respect

of a loan or advance to the industrial company, but was a suit based on an independent contract between the plaintiff and defendant to which the industrial company is not a party. The necessary corollary was that the sanction of the Board or the Appellate Authority under Section 22(1) of the SICA cannot be said to be a sine qua non for the institution of the suit.

In ***Director of Income Tax, New Delhi v. LG Cable Ltd.***, 2011 II AD (Delhi) 286 interpreting the provisions of Section 9(1)(i) Income Tax Act, 1961 qua offshore supply contracts, it was held that where the contract unequivocally clarified that the Assessee was awarded two contracts by the Power Grid Corp. Of India Ltd., there was no justification to mix the consideration for the offshore and onshore contracts. None of the stipulations of the onshore contract could conceivably postpone the transfer of property of the equipment supplied under the offshore contract, which, in accordance with the agreement, had been unconditionally appropriated at the time of delivery, at the port of shipment. It was held that when the equipment was transferred outside India, necessarily the

taxable income also accrued outside India, and hence no portion of such income was taxable in India.

Justice Khetrapal is known to be knowledgeable, wise, and her judgments reflect not just her reliance on the laws as are laid out, but also her extreme respect for integrating the principles of social justice and of equity.

One significant point to mention is that in a case a person was convicted and sentenced to imprisonment for one year for murdering his wife, when sentence was confirmed by the Division Bench, there were three minor children of the convict. At that time, a question arose as to what scheme the Government has framed for such destitute children whose parents are behind the bars. Since there was nothing in the statute, a task to look after this noble cause was first undertaken by a Bench of this Court headed by Justice Mukul Mudgal & Justice Khetrapal. Later on, the case was assigned to Justice Khetrapal with Justice Hima Kohli as the other member of the Bench. In order to fulfil the constitutional mandate as held in ***Vishaka vs. State of Rajasthan***, AIR 1997 SC 3011, initially the Court issued notices to the Ministry of Social Justice

& Empowerment and Ministry of Women & Child Development to consider the framing of a scheme and provision of appropriate funds for such a socially benevolent scheme by the Government which would facilitate the children who are the victims of crime to escape destitution and provide avenues for becoming responsible citizens of this country. Notices were also issued to Chief Secretary, Government of NCT of Delhi, the Secretary General, National Human Rights Commission and the Attorney General of India.

Eventually on 13th August, 2014 under the auspices of the Court the scheme for the Financial Sustenance, Education and Welfare of Children whereunder the children of parents who are in prison or whose earning parent is in prison will get monetary assistance every month till they attain the age of 18 or until their parents are released from prison, whichever is earlier, was promulgated. It is the untiring efforts of Justice Khetrpal that the Scheme for Financial Sustenance, Education & Welfare of Children on Incarcerate Parents, 2014 has seen the light of the day. The Scheme is reported to be the first of its kind in the country.

The aforementioned case evidences that Justice Khetrapal is not only gifted in the application of law, both in letter and in spirit, but is also cognizant of the social realities of the world we live in.

It would not be out of place to mention that Justice Khetrapal has been an active Member of the Administrative Committee of Delhi High Court from 01.07.2010 till date and has rendered valuable contribution in resolving issues relating to smooth administration of the High Court.

She has also been a member of the Committee to Monitor Proper Implementation of Several Guidelines Laid Down by the Supreme Court as well as High Court of Delhi for dealing with matters pertaining to Sexual Offences & Child Witnesses. That Committee has established the Vulnerable Witness Deposition Complex in Karkardooma Court in September, 2012 which is the first complex of its kind in India and South Asia and one same complex in Saket Court very recently on 17th September, 2014. The steps taken by the Committee in laying down the guidelines regarding witness protection is worth appreciating.

That apart, Justice Khetrpal has also been the Chairperson of the Arbitration Committee of the Delhi International Arbitration Centre for the past more than 2 years and contributed a lot to ensure its growth as one of the best and sought after arbitration centres in the country.

I thank Justice Khetrpal for her distinguished service as a Judge of this court, which has left a huge impression on all those who interacted with her, during her tenure as a judge of this High Court, and also thank her for her amazing work ethic and her dedication to dispense justice. This Court will always remember the remarkable and efficient way in which Justice Khetrpal has discharged her duties as a judge and her contributions to this court.

I on my behalf and on behalf of my brother and sister colleagues thank Justice Khetrpal for her illustrious service as a judge of this court and wish her the best of luck in all her future endeavours.

Thank you.