

FULL COURT REFERENCE
TRIBUTE TO
LATE MR. MADAN BHATIA AND MR. S. C. DHANDA
SENIOR ADVOCATES
THURSDAY, AUGUST 1, 2013

THE HON'BLE CHIEF JUSTICE, HON'BLE JUDGES,
MR. RAJEEVE MEHRA, ADDL. SOLICITOR GENERAL
OF INDIA, MR. ~~SURYA PRAKASH, CHAIRMAN AND~~
~~JOINT SECRETARY, BAR COUNCIL OF DELHI,~~
STANDING COUNSEL FOR THE GOVERNMENT OF
INDIA AND MS. ZUBEDA BEGUM, GOVERNMENT OF
NATIONAL CAPITAL TERRITORY OF DELHI, MR. J. P.
SENGH, VICE-PRESIDENT, MR. MOHIT MATHUR,
SECRETARY AND OTHER OFFICE BEARERS OF THE
DELHI HIGH COURT BAR ASSOCIATION AND
OFFICE BEARERS OF OTHER BAR ASSOCIATIONS,
MEMBERS OF THE FAMILIES OF LATE MR. MADAN
BHATIA AND MR. S. C. DHANDA, RESPECTED
SENIOR MEMBERS OF THE BAR, MY COLLEAGUES,
LADIES AND GENTLEMEN:

Death is an inevitable part of life, or as has been said, the unseen side of life, or that if life is music, death is a note unsung. Whatever be the sayings, death is a permanent truth. We hear about permanent truths first when we learn definite and indefinite articles in elementary English grammar. Death is definite in appearance and occurrence, but indefinite beyond that. The death of Madan Bhatia ji and Dhanda Sahib made us gather here today to pay our homage to them.

*By Sumant
Prakash
Kumar
Datta
Secretary*

Mehra

*Kee D. Farzi
ke hane juphe
G. M. Tanna*

*Was Sistani ji
and ke Sistani ji
K. V. S. S.*

Perhaps the last two months saw more deaths in the families of our fraternity than ever earlier.

Bhatia ji left for his heavenly abode on June 27, 2013, at the age of 84, living a full life. Though it has been said that 'best men die young' it need not always be true. By and large, best lawyers die old. I would pray may it be so forever.

Bhatia ji was enrolled to study literature at Cambridge. On the suggestion of a friend to study law, though hesitantly, he moved to London and became a barrister at Lincoln's Inn and moved to Delhi. The rest is history and we know that.

Since three or four years he often used to call himself a 'fading lawyer' in private conversations. May be he was mentioning that not much time is left for him or that the standards and values he held close to his heart are fading. If I give emphasis to the latter part of the sentence, perhaps I might be stirring a hornet's nest. So, silence is sagacious. Yet, for those who knew him from close quarters, could well get the meaning without any gesture from me.

Ever since I entered in this temple of justice, I had the opportunity of meeting him, engaging him and opposing him. Every time, irrespective of who won or lost, the learning experience was mine; it was an enriching one. Luckily, I had the opportunity of interacting with the best of seniors in the profession, which each time reinforced my belief that the Bar constitutes by far the most brilliant and attractive of peaceful professions, which commands a great deal of moral dignity and at the same time affords great scope. About the Bar, how well-articulated were the words of the celebrated author P. RamanathaAiyar, that:

“the Bar at present comprises considerably of the most cultivated, acute and vigorous intellect of the age; is animated by high honour and indomitable spirit exercises great influence; and largely contributes to the most responsible and distinguished services of the State.”

No doubt, Bhatia ji came from that age and was of that clan. When he said that he is a fading lawyer, was he not remotely connecting the age as described by Aiyar, with the future?

Though he joined the Bar in 1961, he was ‘silked’ by this Hon’ble Court in 1993. Work is one thing and recognition

another. When work goes well and as desired by the doer, recognition is the least important factor. It may come or may not. But the work goes on, like Tennyson's brook –

***“For men may come and men may go,
But I go on for ever.”***

Bhatia sahib had very high intellectual capacity and legal acumen and rose to be one of the most eminent Seniors. Volumes of judgments speak his vast erudition, legal insight, far sighted vision and capacity to urge the brooding spirit of law to the intelligence of a future day. His innate modesty made him conscious that he was only a humble instrument for carrying out the design of higher forces that will shape the destiny of this great institution. He is certainly one who has left an indelible imprint on the legal landscape.

The judgment in Maneka Gandhi's case made him more popular as that was considered to be a landmark judgment. He had won that case, which was somewhat unsuccessful before a three Judge Bench, before a Seven Judge Bench. The Court enlarged the protection of life and liberty enshrined in Article 21 of the Constitution and ruled that mere existence of an enabling law was not enough to restrain

personal liberty, such a law must also be 'just, fair and reasonable.' This judgment acted as a precursor to the creative expansion of rights.

He was never in favour of surrendering to judicial supremacy and had always highlighted the necessity of political and social uprightness and enabling conditions. He fully understood Francis Bacon's words that "**there is no worse torture than the torture of laws.**"

Apart from being a lawyer par excellence, he was equally excellent in politics. He was an AICC Member from Delhi, and a Member of Parliament, in Rajya Sabha, from 1982 to 1994. He was not a fiery orator, but was an orator who could convey what he intended, with great clarity, in-depth analysis and ease.

When the Supreme Court's judgment in Inamdar's case came out, he wrote two beautiful articles in November 2005 on 'Education'. While appreciating and emphasizing the necessity of private institutions he was quite clear about the fee structure implications. Yet he clearly made out the necessity to understand as to how the minority rights are protected by Articles 29 and 30 of the Constitution rather than a right as such. He endorsed the view that the right to establish an

educational institution can be regulated, but such regulatory measures must, in general, be to ensure the maintenance of proper academic standards, atmosphere and infrastructure and the prevention of maladministration by those in charge of management.

A fortnight ago, i.e., on July 14, DhandaSaheb passed away. He too lived a full life and was around 83 at the time of his death. Though a person of ability and learning, Dhanda Saheb was very unassuming yet high-minded, gentle, kind and of amiable disposition; independent and always ready to correction when he was convinced or persuaded by someone that his view was wrong. He always valued reason and never let his opinion to be ruled by ego or one sidedness.

His intellectual integrity, indomitable courage and absolute simplicity were proverbial. During 'decades' as an officer of this Hon'ble Court none was ever able to overcome his iron will or rupture his sense of duty to this Hon'ble Court and dispensation of justice. Seldom is so much packed into one human life. What made him tower over the strong seas was the fact that he was a man of thought, and a man of dynamic action. I had the privilege to interact with him and oppose him in some matters. Many of us remember him as a guiding force. He always encouraged the youngsters to do things better. We had a

very dynamic judge, Hon'ble Mr. Justice Harsh Chander along with Mr. V. P. Singh, Sr. Advocate in so far as I can recollect. His Lordship was Dhanda Sahib's partner, till his elevation to the Bench. For me Dhanda Sahib was not only a near and accessible senior, but a next door neighbor in the colony as well. He was an authority on almost all civil laws, particularly insurance, education, motor accident and commercial laws. There are innumerable judgments on these matters where Dhanda Saheb was the counsel.

The spirit knows no youth or age, no fatigue or death, only a man influenced by deep spiritual sustenance and an abiding faith can do thinking and labouring as Dhanda Saheb did.

The country is in a state of moral decay. We suffer from a kind of fatigue conscience and the malady seems to be persistent and even aggressive. Our collective forgetfulness in every sphere is phenomenal. Nature has been kind enough to bestow us with immense intelligence and skill, but we somehow cultivated little sense of public duty, discipline and dedication.

We are hopeful that our young members would learn from the duties and passion of our seniors and inspire themselves with an earnest

and unflagging zeal to continue to strengthen the administration of justice. That alone shall be the greatest tribute to the stalwarts who are no longer with us.

The secret of greatness is simple - we should always endeavour to do better inside and outside the Court. Our seniors would continue to bless us finding us growing through the experience they lend, with honesty and courage and a passion to do the best.

Mrs. Cora Wilson Stewart, an outstanding Kentucky educator and a crusader against illiteracy, in her address before the Southern Educational Associates in December 1911, while speaking about the need of honest men and women quoted:

“Men who, the lust of office does not kill;
Men whom the greed of office cannot buy;
Men who possess opinions and a will;
Men who can stand before a demagogue
And scorn his flatteries, without winking;
Tall men, sun crowned, who live among the fog
In public duty and in private thinking”

This quote was a favourite one with our late Palkhivala Saheb, when he used to speak about Hon'ble Judges. In every walk of life such tall men will always remain tall. It is that what our young generation should aspire for.

I must extend, on behalf of the Bar Association our gratitude to the family of Bhatia Saheb, for they have offered to gift his entire library to the Bar. That is a fine gesture, which will always be remembered and cherished by this Bar.

While Sagari and Prashant have followed Dhanda Sahib's footsteps, we all need to follow the values, integrity and indomitable courage of both, Bhatia Sahib and Dhanda Sahib in this profession.

While we send our heartfelt condolences to the families of Bhatia Saheb and Dhanda Saheb, we share their grief and pray for peace to the departed souls, we also pray may God give the bereaved families enough strength to bear the loss.

Thank you.

A.S. Chandhiok
August 1, 2013