

ADDRESS BY HON'BLE THE CHIEF JUSTICE DR.MANJULA
CHELLUR, HIGH COURT OF JUDICATURE AT BOMBAY, AT
THE FULL COURT REFERENCE TO LATE MR.ANIL B. DIVAN,
SENIOR ADVOCATE, ON FRIDAY, 7TH APRIL 2017 AT 11.00 A.M.
IN THE CENTRAL COURT.

My esteemed colleagues

Mr.Rohit Deo, Advocate General of Maharashtra

Mr.Anil Singh, Additional Solicitor General of India,
who also represents Bar Council of Maharashtra & Goa.

Dr. Milind Sathe, President,
Bombay Bar Association.

Mr. Rajiv Chavan, President,
Advocates' Association of Western India.

Mr.Nilesh Modi, Secretary,
Bombay Incorporated Law Society.

Learned Senior Advocates, respected Members of the Bar,
and members of the bereaved family.

Ladies and Gentlemen,

Today, this assembly, this morning is to mourn the passing away of **Mr. Anil B. Divan**, a distinguished constitutional expert, who left us for his heavenly abode on 20th March 2017 at 8.15 a.m. in New Delhi at the age of 86 years, after a fatal asthma attack.

Mr. Anil Divan was born on 15th May, 1930 in an illustrious family. His maternal grandfather, **Sir Chimanlal Setalvad**, was an eminent lawyer who had later served as the **Vice-Chancellor** of the **Bombay University**. His paternal grandfather was no less accomplished. **Shri Jivanlal Divan** founded the famous **Proprietary High School** in **Ahmedabad** and marched with **Gandhiji** to **Dandi** in 1930. His father, **Baburao Divan**, was an alumnus of **Columbia University (New York)** and had earned a degree in **Pedagogy**. His mother, **Smt. Sharda Divan**, was the first woman **Registrar** and later **Vice-Chancellor** of the **SNDT Women's University** in **Mumbai**. Other family members, who rose to eminence, were **Shri M.C. Setalvad**, his maternal uncle, was the first and longest serving **Attorney General of India**, for 13 years; **Shri Bipinchandra J. Divan**, his paternal uncle, was the **Chief Justice** of the **Gujarat High Court**.

Mr. Anil Divan (popularly known as "**Anilbhai**") had a scholastic academic career. He stood first from his school in the matriculation examination. In 1949, he joined the **LL.B.** at **Government Law College, Mumbai**, and completed the same very successfully with scholarship and gold medal.

In November 1951, he was enrolled as an Advocate in the Bombay High Court and started practice on the Original Side. In 1972, he was designated as a Senior Advocate by the Bombay High Court. However, he shifted to the Supreme Court, so far as his practice, in 1972. From 1991 to 1993, he was **President of Law Asia**. During September 2010 to September 2014, he was **President of the Bar Association of India**. He was a Member of the **International Law Association** and had served on its Water Resources Committee as well as Bio-technology Committee. He was conferred the **Naitik Samman** presented by the President of India Dr.A.P.J. Abdul Kalam on behalf of the Gulzari Lal Nanda Foundation.

He was conferred Doctor of Law *honoris causa* by Ravenshaw University, Orissa, in the year 2009.

He was a Member of the Committee on Judicial Accountability.

After having spent half of his career at the Bombay High Court, he went on to become one of the most respected and socially active Senior Counsel at the Supreme Court. He argued many high profile matters and was one of the founder Members of the influential Centre for Public Interest Litigation in the 1980s.

He had participated in foundation of the institution "People's Union for Civil Liberties" (PUCL) along with Shri Jayaprakash Narayan, Shri Justice V.M.Tarkunde, Shri Rajni Kothari, Shri Rajinder Sachar, etc.

He was appointed as an *amicus curiae* by the Supreme Court in Public Interest Litigations involving high level politicians and bureaucrats, including Cabinet Ministers and Members of Parliament, viz., **Jain Hawala** case; the **Chandraswami** case; the **Indian Bank Scam** case, etc. He argued successfully before Constitution Bench of the Supreme Court which invalidated section 6A of the Delhi Special Police Establishment Act of 1946 providing for “Prior Approval” by the Central Government before inquiry or investigation by the C.B.I.

He was also known for his arguments in many *pro bono* Public Interest Litigations involving constitutional issues such as **Pensioners'** case, **Common Cause** case, and **N. Kannadasan v. Ajoy Khose** with regard to appointment of Justice Kannadasan as President, State Consumer Disputes Redressal Commission.

He was also known for his arguments in many other important matters : **Shriram Fertilizer** case (**Oleum Gas Leak** case) and **Bhopal Gas Leak** case. He was Counsel for the State of Karnataka in **Inter-State Water disputes** relating to **river Cauvery** and **river Krishna**. He had also appeared as *pro bono* for Shri Ram Jethmalani & Others in what is known as **Black Money** case for bringing back illicit money kept in Foreign Tax Havens by Indians.

Recently, he was appointed by the Supreme Court to oversee the appointment of BCCI Administrators. He made convincing submissions in the National Judicial Appointments Commission (NJAC) hearings in 2015.

He was the author of the book “**On the FRONT FOOT**” — a collection of writings on Courts, Press and Personalities. This collection is very popular and appears to be a chronicle of his evolving thoughts and perceptions, collective memories of the Bar and events in the theatre of the courts gleaned over many years. His views of the shortcomings of the Judiciary have been expressed forthrightly, even though not palatable to many. The criticism is to help strengthen and reform the judiciary. Mr.Divan's interests in cricket is also evident from this book.

He contributed many articles in National Newspapers like “The Hindu”, “The Indian Express”. He contributed many papers in international conferences, some of them being, the Commonwealth Lawyers' Conference at Auckland in 1990; National Environmental Law Association of Australia Conference at Bangkok in 1990. He was invited to the Distinguished Guests Programme at the Annual Conference of the American Bar Association both in 1992 and 1993. He was asked to speak at the Law Association of Western Australia in 1989. He was also invited to speak at the Law Asia Energy Law Section in Melbourne in 1989.

Mr.Anil Divan's passionate interest in his school was sports. He was a student of the New Era School which adopted some features of Shanti Niketan like morning Assembly, emphasis on music and cultural activities under the school's dynamic Principal Shri Maganbhai T. Vyas. At the age of 12, he became Western India Juniors Badminton Champion and retained the title in 1943. He also played table tennis and was a Champion in his school.

The principles of justice and the law were embedded in his DNA. Mr. Anil Divan was tall in body and mind. Never once to mince words, he was bold and fearless and never worried about the consequences of his actions. He was an extraordinary scholar. He was sincere, honest, hard-working, quiet and sober, and a towering personality. Someone once said, "Tears are sometimes an inappropriate response to death. When a life has been lived completely honestly, completely successfully, or just completely, the correct response to death's perfect punctuation mark is a smile." Anilbhai lived his life completely honestly, completely successfully and completely. As Jean de La Fontaine said "Death never takes a wise man by surprise; he is always ready to go" and Mr. Divan was indeed a wise man.

Anilbhai possessed a conscience, not shaped by rigid rules of doubtful validity, but answerable only to a moral code. His conscience was governed by the rejection of self-interest and ambition. It was propelled by a consuming desire to play a leading role in the fair administration of justice, with a belief in seeking truth for the preservation of the rule of law. As a lawyer, Anilbhai was an epitome of virtues. Being courageous, plain-speaking, sound in law, impeccable in conduct and thorough in preparedness made him one of the most admired lawyers. He proved that the legal profession was indeed a noble one.

He was a voracious reader and engaged in animated conversations within and outside court on public issues. His views were sober. His contribution to the development of the legal profession is noteworthy. As President of Law Asia and the Bar Association of India, he brought India on an international platform, creating a lasting image.

A staunch believer in the independence of the judiciary, he made signal contributions to the legal profession, which will go a long way in strengthening freedom, dignity and democracy in the country.

Mr.Divan is survived by wife, **Smt. Smita Divan**, who is a former President of the Maharashtra State Women's Council, Mumbai, and former Chairperson of Asha Sadan; elder son – **Shyam, Senior Advocate** practising in the Supreme Court; daughter-in-law Smt.Madhavi Divan, an Advocate practising in the Supreme Court; and younger son **Vivek**, a lawyer who has worked in the areas of HIV, etc., and was a Policy Specialist with UNDP in New York; a daughter – **Dr.Gauri Divan-Patel** and son-in-law **Dr.Vikram Patel** work in a non-Governmental organisation which promotes child development, adolescent health and mental health.

In his personal life, Anilbhai was a great human being. A husband who doted on his wife, Smita behen, and a father who took real pride in his three children.

In passing away of Mr.Divan, the nation, the judicial system; his family and friends will miss him immensely. But he will always be remembered, because as T.S. Eliot once said, "Our dead are never dead to us, until we have forgotten them". Anilbhai's journey ensures that we will never forget him.

My colleagues and I share the grief of the bereaved family.

May his soul rest in eternal peace !

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ADDRESS BY SHRI ROHIT DEO, ADVOCATE GENERAL OF
MAHARASHTRA, AT THE FULL COURT REFERENCE TO LATE
MR.ANIL B.DIVAN,SENIOR ADVOCATE,ON 7THAPRIL,2017 AT 11AM
IN THE CENTRAL COURT.

My Lord the Hon'ble the Chief Justice Dr. Manjula Chellur, Hon'ble Judges of this Hon'ble Court, Shri Anil C. Singh, Additional Solicitor General of India, Dr. Milind Sathe, President, Bombay Bar Association, Shri Rajiv Chavan, President, Advocates' Association of Western India, Shri Nilesh Modi, Secretary, Bombay Incorporated Law Society, members of the Bar, members of Shri Divan's family, friends,

1. We are gathered here today to pay our respects and tributes to the late Shri Anil B. Divan, who left for his heavenly abode on 20th March, 2017.

2. Shri Divan was born on 15th May, 1930. In his youth, Shri Divan excelled as a student and was also an avid and accomplished sportsman, excelling at badminton and table tennis. His health brought his sports career to an early end. However, sports' loss was law's gain.

3. It was perhaps inevitable that Shri Divan would enter the legal profession, given his illustrious lineage. He was a grandson of Shri Chimanlal Setalvad, the "*Bhishma Pitamaha*" of the Indian Bar, as a former Chief Justice of this Court referred to him. His

uncles included His Lordship Shri Bipinchandra J. Divan, former Chief Justice of the Gujarat High Court and Shri Motilal Setalvad, former Attorney General for India and Advocate-General of Maharashtra. For many, the burden of expectation would have been overwhelming, however, not for Shri Divan.

4. Shri Divan was enrolled as an Advocate in November 1951 and began his practice in our Court in January 1952. He was designated as a Senior Advocate by our Court in 1972, at a young age.

5. It hardly needs to be said that he was one of the greatest Advocates to have graced our Court, and indeed any Court in the nation, his passing away is an inconsolable loss to the legal fraternity. He has left an indelible mark on our law through the judgments he has contributed to as an Advocate.

6. Shri Divan indeed spent the better part of his life defending and fighting for our most cherished constitutional principles.

7. To attempt to recall every important matter, Shri Divan appeared in and contributed to is an impractical exercise, given the immensity of his contribution to the law and his decades of practice at Bombay High Court and the Supreme Court. However, I may briefly recall some notable cases.

8. He appeared as *amicus curiae* in the **Jain Hawala** case (Vineet Narain vs. Union of India (1998) 1 SCC 226).
9. He successfully argued the challenge to the validity of Section 6A of the Delhi Special Police Establishment Act, which was struck down by a Constitution Bench of the Apex Court in Dr.Subramanian Swamy v. Union of India (2014) 8 SCC 682.
10. He was lead counsel for the State of Karnataka for a number of years in the inter-state water disputes relating to the Cauvery and Krishna rivers.
11. He argued for the removal of High Court Justice Ashok Kumar in **Shanti Bhushan** vs. **Union of India** (2009) 1 SCC 657.
12. He regularly appeared for tenant organizations in the challenges to the Rent Control statutes in the Supreme Court.
13. He argued the landmark Pensioner's Case before a Constitution Bench of the Apex Court in **D. S. Nakara** vs. **Union of India** (1983) 1 SCC 305.
14. Amongst countless others, Shri Divan also contributed to a number of books, publications and international conferences.
15. Shri Divan is survived by his wife Smita, his daughter Gauri, and his sons Vivek and Shyam, himself a distinguished senior advocate, who now bears the torch of his great family legacy.

16. Shri Divan was the conscience keeper of the Bar, and keepers never die. Their legacy lives on eternally, inspiring future generations.

17. On behalf of the Bar and the State of Maharashtra, I extend our deepest condolences to the entire bereaved family.

May his soul rest in peace.

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ADDRESS BY SHRI ANIL SINGH, ADDITIONAL SOCLICITOR
GENERAL OF INDIA AND ON BEHALF OF BAR COUNCIL OF
MAHARASHTRA AND GOA, AT THE FULL COURT REFERENCE TO
LATE MR.ANIL B. DIVAN, SENIOR ADVOCATE ON 07TH APRIL, 2017
AT 11.00 A.M. IN THE CENTRAL COURT.

My Lord, Hon'ble the Chief Justice,

Other Judges of this Hon'ble High Court,

Shri Rohit Deo, Advocate General of Maharashtra,

Dr. Milind Sathe, President, Bombay Bar Association.

Shri Rajiv Chavan, President, Advocates' Association of Western
India.

Shri Nilesh Modi, Secretary of Bombay Incorporated Law Society,

Family Members of late Senior Advocate Shri Anil B. Divan,

Members of the Bar,

Ladies and Gentlemen,

Shri Anil Divan passed away on 20th March, 2017.
Originally from Mumbai, Shri Divan graduated from Government
Law College, Mumbai and also stood first in LL.B. examinations and
bagged a gold medal in jurisprudence.

Having spent half his career at the Bombay High Court,
Shri Divan went on to become one of the most respected and
socially active senior counsel at the Supreme Court. He continued
arguing in many high profile matters and was also one of the

founder members of the influential Centre for Public Interest Litigation in the 1980s. He was one of the most respected constitutional experts and did not bend the rules of professional ethics and principles, to suit the circumstance. He was sincere, honest, hard-working, man of integrity and a towering personality.

Shri Divan continued the legacy of his maternal grandfather, Sir Chimanlal Setalvad, an eminent lawyer who had later served as Vice-Chancellor of Bombay University and his paternal grandfather Shri Jivanlal Divan who founded the famous Proprietary High School in Ahmedabad and marched with Gandhiji to 'Dandi' in 1930. Smt. Shardaji, his mother, was the first woman Registrar who went on to become Vice-Chancellor of the SNDT Women's University in Mumbai. Cricket was one of his passions. Shri Divan was a very good badminton, tennis and golf player and he said "nothing comes between me and golf".

More recently, the Supreme Court appointed Shri Divan to oversee the appointment of BCCI administrators, and he also made key submissions in the NJAC hearings in 2015.

Shri Divan strongly advocated the belief that success at the Bar is no success unless achieved by adhering to the highest standards of professional ethics. No matter how influential the client was, he had to visit his chamber with their case. When Shri Divan was engaged to appear for the son of a sitting Prime Minister, he was requested to visit the PM's residence to discuss the case.

However, Shri Divan was quick to remind the concerned solicitor that the PM, in this circumstance, happened to be his client and would therefore need to meet him like all other clients in his chamber. He never accepted fees in cash. Not only did Shri Divan never appear before a Court without full preparation, he also did not tolerate a junior who came to brief him without mastering the case.

Describing my first experience at the Supreme Court as a junior counsel briefing Shri Divan, I was advised to only enter his chamber unless I knew the brief backwards. During our conference, he mentioned that the matter had no merits. When the Bench expressed a similar opinion, he did not argue any further. Shri Divan always stated correct facts before the Court and would never, even indirectly, try and mislead it on either facts or the law. Judges heard him with great respect and gave due importance to his intellect and qualities.

Shri Divan stood for probity in public life. His greatest contribution came in the form of the judgment in **Vineet Narain** case, 1998 (also known as **Jain Hawala** case). Shri Divan had also been actively involved to resolve the Cauvery dispute for decades.

In later years, Shri Divan, together with Shri Jethmalani, took active part to curb black money, and also persuaded the Supreme Court to appoint a Special Investigation Team (SIT) consisting of retired Supreme Court Judges to look into the issue of black money and undisclosed foreign accounts.

His death has left a vacuum, particularly for public interest litigators and NGOs. Shri Anil Divan had been writing extensively on judicial appointment by the Collegium, which he felt required extensive reform, without impairing the independence of the judiciary.

He willingly appeared pro bono in matters involving serious public issues, especially those involving probity in public life. His contribution to the development of the legal profession is noteworthy.

Shri Divan was a great human being, he lived his life completely without compromising his principles and ethics. I also believe that his contribution towards the law and the legal fraternity will continue to make a difference to all of us, through his commendable work.

His son Shri Shyam Divan carries the torch forward. On behalf of myself and Bar Council of Maharashtra and Goa, I express my deepest condolence to the members of the bereaved family.

May his soul rest in peace !

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ADDRESS BY DR. MILIND SATHE, PRESIDENT, BOMBAY BAR
ASSOCIATION AT THE FULL COURT REFERENCE TO LATE SHRI
ANIL B.DIVAN, SENIOR ADVOCATE, ON FRIDAY, 7TH APRIL 2017
AT 11.00 A.M. IN THE CENTRAL COURT.

Hon'ble Chief Justice Dr. Manjula Chellur

Advocate General Shri Rohit Deo

Additional Solicitor General Shri Anil Singh

President of Advocates' Association of Western India Shri Rajiv
Chavan,

Secretary of Bombay Incorporated Law Society Shri Nilesh Modi,
Senior Advocates

Members of the Bar

And Members of Shri Anil Divan's family

We have assembled this morning to mourn the sad
demise of Mr. Anil Divan, Senior Advocate, who passed away on 20th
March 2017 at the age of 86 years.

I fully associate myself with the sentiments expressed by
the Hon'ble Chief Justice and my previous fellow speakers.

Mr. Anil Divan was born on 15th May, 1930 to Sharda and
Baburao Divan. His family lineage includes his maternal
grandfather, Sir Chimanlal Setalvad a leading lawyer at the Bombay
Bar and his paternal grandfather Jivanlal Divan, the founder of the
famous Proprietary High School in Ahmedabad who also

participated in the Dandi salt march. His mother, Sharda was the first woman Registrar and later Vice-Chancellor of the SNDT Women's University in Mumbai while his father Baburao was an alumnus of Columbia University (New York) and earned a degree in Pedagogy with a view to contributing to the Proprietary High School. When Baburao's father, Jivanlal, inspired by Gandhiji's independence movement converted the School into a public trust, he could not pursue a teaching career and became an entrepreneur. Mr. Anil Divan's maternal uncle Mr. Motilal Setalvad was the first Attorney General and his paternal uncle Mr. Bipinchandra J. Divan was Chief Justice of Gujarat High Court.

Coming from such illustrious background, Mr. Anil Divan was himself a legend in Law during his life time. He started practice in the Bombay High Court in 1951 in the chambers of Mr. Maneksha and was designated as a Senior Advocate in 1972 by the Bombay High Court. He had a large practice at Bombay High Court in Constitutional as well as Commercial Law before he finally shifted to Delhi in the Supreme Court in 1979. Probably that was because he was part of the legal team headed by Mr. Nani Palkhivala in Keshwanand Bharti's case.

In the Supreme Court, Mr. Anil Divan handled series of landmark cases, few being **Jain Hawala** case, as amicus curiae in which the Supreme Court evolved the concept of continuing mandamus whereby the Court supervises the implementation of the orders passed by it in respect of a particular issue of enforcement of statutory or constitutional obligations. He was also appointed as

amicus curiae in **Chandra Swamy** case and **Indian Bank Scam** case. He was of course different from the Delhi culture of running from Court to Court on SLP dates and he would accept limited number of cases and do full justice to the cases he had undertaken.

Mr. Anil Divan argued many pro bono public interest litigation cases in the Supreme Court, including the Petitioners' case (D. S. Nakara V/s. Union of India, 1983) for Common Cause. He was appointed amicus curiae by the Supreme Court in the public interest litigation involving high level political and bureaucratic corruption in the **Jain Hawala** case (Vineet Narain V/s. Union of India, 1998); the **Chandraswami** case (Anukul Chandra Pradhan V/s. Union of India); and the **Indian Bank Scam** case (Dr. Subramanian Swamy V/s. Director CBI). He had also appeared in the **Shriram Fertilizer** case and the **Bhopal gas leak** case for the respective Corporations. He appeared for the Bar Association of India challenging the Constitution 99th Amendment and the NJAC Act, which were invalidated and declared unconstitutional by the Supreme Court. He was currently appearing in the **Black Money** case filed by Ram Jethmalani and others, which is pending in the Supreme Court.

Mr. Anil Divan was elected as President of LAW ASIA (1991-93) and was a member of the International Law Association (ILA) and had served on its Water Resources Committee as well as Bio-technology Committee. He was the President of the Bar Association of India (2010-14).

He was supporter of Anna Hazare Movement against corruption urging that the Lokpal should be comprehensive to include prosecution of the persons in high places such as Prime Minister also. Despite the huge criticism of judicial activism, Mr. Divan was an ardent supporter of judicial activism urging “judicial activism is much needed oxygen to a gigantic democratic experience in India by alchemy of judico-photosynthesis”. He was one of the pillars of both attack as well as defence on behalf of State of Karnataka in **Cauvery River Water Dispute** with State of Tamil Nadu.

Mr. Anil Divan was conferred Doctor of Law honoris causa by Ravenshaw University, Orissa (2009); and the “Naitik Samman” presented by the President of India Dr. A. P. J. Abdul Kalam on behalf of the Gulzari Lal Nanda Foundation (2004).

Apart from Law, he had varied interest in life which included golfing which interest he acquired during his base in Delhi during Keshwanand Bharti time. He also enjoyed wild life and nature in its serene atmosphere. He had also fancy for cricket and he revered Don Bradman, a legend of cricket. He was a prolific writer and authored several papers and articles and also a book titled “On the Front Foot” which went into second enlarged edition in 2017.

In his own words his articles reflect his views on the shortcomings of the judicial system in a forthright manner but it was meant to help strengthen, invigorate and reform the judiciary.

I have done few matters with him, both in Bombay as well as in Delhi, including some forest matters and company matters. Few years back, I had opportunity to travel with him when he was leading a delegation of Bar Associations in India to a conference at Israel for Israel Bar Association. His passion for history and his cheerfulness at the age of 85 and his untiring enthusiasm was evident during our visit to Petra in Jordan and other historic sites in Jerusalem.

During the current scenario of dwindling value, Mr. Anil Divan was a “Light House” strongly urging that youths must uphold the highest standards of integrity rectitude in the country, which standards he not only professed, practised but he was known to have never accepted fees in cash and was one of the highest taxpayers in the country. Because of this sometimes he would come across as a curt person, but that was only his exterior. He was a very friendly person when he would open up.

In death of Mr. Anil Divan, we have not only lost a great lawyer, a jurist, a humanist and a thinker, but also a great human being and a member of our Bar. His son Shyam Divan is a Senior Advocate from Bombay now practising in the Supreme Court. His younger son Vivek was also an advocate practising at Bombay, now associated with United Nations. His wife Smitaben is also a part of BBA family, being sister of Mr. Ashok Desai. His daughter-in-law Madhavi, apart from being a distinguished Advocate, is also an author.

On behalf of myself and members of the Bombay Bar Association, I express my heartfelt condolences on the demise of Mr. Anil Divan and pray that Almighty give courage to the members of the bereaved family to bear the loss.

May the departed soul rest in Eternal Peace !

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ADDRESS BY SHRI RAJIV CHAVAN, SENIOR ADVOCATE AND
PRESIDENT OF ADVOCATES' ASSOCIATION OF WESTERN INDIA,
AT THE FULL COURT REFERENCE TO LATE MR. ANIL B. DIVAN,
SENIOR ADVOCATE, ON 07th APRIL, 2017 AT 11.00 A.M.
IN THE CENTRAL COURT.

My Lady The Hon'ble Chief Justice Dr. Manjula Chellur,
Hon'ble Judges of High Court,
Learned Advocate General of Maharashtra Shri Rohit Deo,
Learned Additional Solicitor General of India Shri Anil Singh,
President of Bombay Bar Association Dr. Milind Sathe,
Secretary of Bombay Incorporated Law Society Shri Nilesh Modi,
Members of late Shri Anil Divan's family,
Senior Advocates, Members of Bar,
Ladies and Gentlemen,

Shri Anil B. Divan was a Senior Advocate practicing in Supreme Court and has been described as an eminent constitutional expert and a conscience of the Indian Bar. Over the years, Shri Anil Divan had established himself as one of the nation's foremost jurists, having appeared in a number of landmark cases in the Supreme Court of India including those that shaped the history of judicial precedents in the country. Known for standing up for the independence of judiciary and its accountability, along with another eminent jurist, Shri Fali S. Nariman, they resolutely questioned the validity of the Government's move to replace the Collegium with

National Judicial Appointments Commission (NJAC) when the issue was being adjudicated by a Constitution Bench in Supreme Court. The Apex Court, agreeing with their arguments against NJAC, quashed the constitutional amendment that sought to do away with the collegium system.

In fact, during a conference, Shri Divan was quoted as saying:

“India is like a mini-Europe. There is great diversity. And what keeps this diversity together is our judiciary. Is it then not important that it be kept independent and separate from the executive?”

When Shri Divan passed away on 20th March 2017, eminent lawyer Shri Fali S. Nariman fondly remembered Shri Divan as an accomplished Advocate of noble lineage whose maternal uncle, Shri M.C. Setalvad was the first and longest serving Attorney General of India. Shri Nariman upon his sad demise said, “Anil and I, along with Murli Bhandare and Ashok Desai, have been friends and practising for over 50 years and we were to celebrate this occasion early next month. But now fate has snatched one of the brightest and most astute.” He underlined that Shri Divan fought not just for clients but for people's rights and freedoms. “As a comrade-in-arms, I will surely miss him”, Shri Nariman said. Shri Anil Divan held several notable positions in his distinguished career and made numerous contributions for social cause which need special mention.

He was President of Law Asia from 1991 to 1993. In February, 2009 he was Associate President of the Bar Association of India. He argued many pro bono Public Interest Litigations, even those involving high level corruption, in the Supreme Court of India as an "amicus curiae". In 2004, he was a member of the Committee on 'Water Resources Law' of the International Law Association and had been appointed by the Government to help resolve the Cauvery Water Disputes. In the late 1980s, Shri Divan was one of the founding members of the Centre for Public Interest Litigation, a non-governmental organization that conducts litigation on matters of public interest. The first President of this NGO was Justice V.M. Tarkunde, who was also the founder of the People's Union for Civil Liberties. Its other founding members were senior advocates including Shri Fali Sam Nariman, Shri Shanti Bhushan, Shri Rajinder Sachar and Shri Colin Gonsalves.

In February 2005, Shri Prashant Bhushan and Shri Anil B. Divan were counsel for the Centre of Public Interest (CPIL), seeking quashing of the CVC Act, 2003, which required the CBI to obtain permission from the Union Government before registering corruption cases against senior bureaucrats. The Supreme Court referred the question to a Constitution Bench of five judges. Shri Divan was also a member of the Committee on Judicial Accountability. Commenting on the Judges Enquiry Bill, 2006, he said, "The aforementioned new bill is worse than the old Judges Inquiry Act and it needs to be scrapped in toto. This new bill is nothing but a sham".

In the words of Shri Murlidhar Bhandare, a Senior Advocate, former Member of Rajya Sabha and former Governor of Odisha and a friend for 67 years of Shri Anil Divan, “Anil was tall in body and mind. Never minced words, he was bold and fearless and never worried about the consequences of his actions. He was an extraordinary scholar. A staunch believer in the independence of the judiciary, he made signal contributions to the legal profession, which will go a long way in strengthening freedom, dignity and democracy in the country.”

Today, we pay our homage to this conscience-keeper of Indian Bar. My Lady, on behalf of Advocates' Association of Western India, I fully associate with the sentiments that have been expressed by Your Ladyship as well as my colleagues at the Bar and pay my humble respects on behalf of the Association to the departed soul and offer deepest condolences to the bereaved family.

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ADDRESS BY SHRI NILESH MODI, SECRETARY, BOMBAY
INCORPORATED LAW SOCIETY, AT THE FULL COURT REFERENCE
TO LATE MR. ANIL B. DIVAN, SENIOR ADVOCATE,
ON 07TH APRIL, 2017 AT 11 AM. IN THE CENTRAL COURT.

My Lady The Hon'ble Chief Justice,

Hon'ble Judges of High Court,

Learned Advocate General of Maharashtra Shri Rohit Deo,

Learned Additional Solicitor General of India Shri Anil Singh,

President of Bombay Bar Association Dr. Milind Sathe,

President of Advocates' Association of Western India Shri Rajiv
Chavan,

Senior members of the Bar,

Family members of late Shri Anil Divan,

My colleagues and friends,

In a short span, we have lost two legal luminaries, both
originally from Mumbai, who then practised in the Supreme Court.

One could spot Shri Anil Divan, a tall humble gentleman
surrounded by junior lawyers, walking with a broad smile in the
lobbies of the Supreme Court. Many a time, you could find him
sitting in the Supreme Court Senior Counsel's Bar room chatting
with colleagues or holding conferences with clients in the cubicles.
When you greeted him, he would immediately acknowledge and
greet you in return.

Shri Anil Divan came from a family of lawyers and eminent person. My lady the Chief Justice and my colleagues here have already mentioned about his laudable accolades as a remarkable lawyer beginning with his practice in the Bombay High Court in January, 1952 and expanding in the Supreme Court. Mr. Divan has appeared in innumerable landmark cases laying down laws, in some of them as amicus curiae, and in many on pro bono basis. Mr. Divan has been the President of the Bar Association of India and Law Asia in the past and has also served on the International Law Association Committees.

Being fond of writing, Mr. Divan has authored a book "On the Front Foot" as well as written several articles and presented papers in international conferences.

On behalf of Bombay Incorporated Law Society and its members, I convey our deep and heartfelt condolences to the bereaved family and pray to almighty to give them enough strength to overcome this loss.

May his soul rest in peace !

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