

**FAREWELL SPEECH ON THE TRANSFER OF HON'BLE
Dr.JUSTICE S. MURALIDHAR, THE JUDGE OF DELHI HIGH
COURT ON 05.03.2020 AT 3:00 P.M.**

**JUSTICE D. N. PATEL
CHIEF JUSTICE**

Dr. Justice S. Muralidhar,

My esteemed brother and sister Judges,

Justice A. P. Shah, former Chief Justice of Delhi High Court,

Smt. Maninder Acharya, Additional Solicitor General,

Shri K.C. Mittal, Chairman, Bar Council of Delhi,

Shri Mohit Mathur, President, Delhi High Court Bar Association,

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

Shri Abhijat, Secretary, Delhi High Court Bar Association,

Shri Rahul Mehra, Standing Counsel (Criminal), Govt. of NCT of Delhi,

Shri Ramesh Singh, Standing Counsel (Civil) Govt. of NCT of Delhi

Standing Counsels of the Central and State Government,

Executive Members of the Delhi High Court Bar Association,

Office Bearers of Bar Council of Delhi and other District Bar Associations,

Senior Advocates,

Members of the Bar,

Family members of Justice Muralidhar,

Ladies and Gentlemen,

We have gathered here today to bid farewell to our esteemed colleague Dr. Justice S. Muralidhar on the occasion of his transfer as Judge of Punjab and Haryana High Court. While bidding farewell, it is an occasion which has some saddening effect on our minds because all of us will undoubtedly feel his absence personally as well as institutionally.

Justice Muralidhar was born on 8th August, 1961. He completed his graduation in Bachelor of Science in Chemistry from Vivekananda College, Chennai and thereafter he completed his Law Degree from University of Madras and awarded L. C. Miller Medals and the Carmichael and Innes Prize, 1984. He represented India at the 25th Phillip C. Jessup International Law Moot Court Competition held in Washington D.C. in April, 1984.

Justice Muralidhar enrolled as an Advocate on 12th September 1984 and started his legal practice before Madras High Court and Civil Courts in Chennai.

In July, 1987 he shifted his practice to Delhi and worked with Mr. G. Ramaswamy who was then Additional Solicitor General of India.

He completed his Masters in Law (LL.M.) in Constitutional and Administrative Law from Nagpur University in 1991. He also cleared the Advocate-on-Record Examination conducted by the Hon'ble Supreme Court of India in 1990 and secured the first position and also awarded Mukesh Goswami Memorial Prize.

Justice Muralidhar was awarded a Doctorate of Philosophy (Ph.D.) for **“Legal Aid and the Criminal Justice System in India”** by University of Delhi in February, 2003.

He argued cases before Supreme Court of India, Delhi High Court and various other judicial fora. His practice included a diverse range of litigation in the field of Constitutional law, Election Law, Criminal Law, human rights, legal aid and public interest litigation etc. He was also a counsel for Election Commission of India and National Human Rights Commission for several years.

Justice Muralidhar was elevated as an Additional Judge of this Court on 29th May 2006 and became permanent Judge on 29th August 2007.

Apart from the contribution he has made while enunciating principles of law in a wide spectrum of cases, his continued involvement with intellectual activities in the administration of Court, has made him a multi-faceted personality.

Justice Muralidhar has written a book titled as “Law, Poverty and Legal Aid: Access to Criminal Justice”. He has been often invited to contribute to National and International events and conferences and presented papers on various topics including “Unsettling Truths, Untold Tales”; The Bhopal Gas Disaster Victims’ Twenty Years of Courtroom struggles for Justice”; “Hang Them now, Hang them not: India’s Travails

with the Death Penalty"; "Access to Justice", and " The Right to Water: an Overview of the Indian Legal Regime", etc.

On the administrative side, Justice Muralidhar served as a Member and Chairman of various committees. He served as a Member of the Administrative and General Supervision Committee, the Building Maintenance and Construction Committee, Committee for designation of Senior Advocates. Justice Muralidhar also served as a member of Committee to take up the matter with the Government for providing the infrastructure for the Subordinate Judiciary, etc.

Throughout his distinguished career as a Judge, Justice Muralidhar has delivered numerous landmark judgments on various jurisdictions which have immensely contributed towards the growth of procedural and substantive law.

In the case of ***Banyan Tree v. Murali Krishna Reddy***, the Court discussed the online use of trademarks and the issue of determining appropriate territorial jurisdiction. Justice Muralidhar, in the instant case, applied the "**purposeful availment**" test and observed that for the purposes of a passing off action, or an infringement action where the Plaintiff is not carrying on business within the jurisdiction of a court, in order to satisfy the forum court that it has jurisdiction to entertain the suit, the Plaintiff would have to show that the Defendant "**purposefully availed**" itself of the jurisdiction of the forum court and held that merely having an interactive website was not sufficient to make the defendant amenable to

the jurisdiction of the forum court. It further held that the plaintiff had to show the intention of the defendant to conclude a commercial transaction with the website user. The judgment made key observations on jurisdictional matters where the cause of action arose, in the nebulous space of the worldwide web.

In the case of **Rajendra Grover v. Air India Ltd.,** Justice Muralidhar negated the challenge to Air India's order enabling Executive Female Cabin Crew to be considered for the position of 'In Flight Supervisor'. The Court held that such an order did not discriminate against male cabin crew and, in fact laid the basis for female cabin crew to break the "glass ceiling" by eliminating the "men only" tag attached to the functions of In-Flight Supervisors. The judgment was upheld by the Hon'ble Supreme Court and it was one of the first Judgement to determine the constitutionality of service conditions against the background of the mandate under Convention of Elimination of All Forms of Discrimination Against Women (CEDAW), marking itself as a milestone in constitutional jurisprudence on sex discrimination.

In the case of **F. Hoffmann-LA Roche Ltd. v. Cipla Ltd.,** the Court discussed the issue of multiple challenges to validity of patents. Justice Muralidhar held that the Patent Act does contemplate multiple challenges to the validity of a patent and mere registration of the patent does not guarantee its resistance to subsequent challenges. He further held that a patent which survives the pre-grant and post-grant challenge

can still be made **vulnerable** on grounds different from the ones raised at those stages. The Court further held that the grant of a patent to the plaintiffs will not *ipso facto* entitle them to an interim injunction if the Defendant is able to satisfy the court that there is a serious question to be tried as to the validity of the patent. This decision highlighted the significance of considerations of general public access to life-saving drugs and the adverse impact on such access as a result of grant of injunctions.

In the case of **Ajay Maken v. Union of India**, Justice Muralidher addressed a Public Interest Litigation in relation to the forced eviction of close to 5000 dwellers of the Shakur Basti in Delhi. The Court, while declaring forced and unannounced evictions to be contrary to the law, also held that the right to housing is a bundle of rights not limited to a bare shelter over one's head. It includes the right to livelihood, right to health, right to education and right to food, including right to clean drinking water, sewerage and transport facilities. The Court further held that the right to adequate housing recognises such persons as right bearers whose full panoply of constitutional guarantees require recognition, protection and enforcement.

In the case of **Dev Sharma v. Indo-Tibetan Border Police**, Justice Muralidhar extended the age of superannuation of personnel of the rank of Commandant and below ranking officers from ITBP, CRPF, and BSF from 57 years to 60 years, at par with officers of higher rank. **Justice Muralidhar**

invoked Article 14 of the Constitution of India to bring parity in retirement ages, finding the reasons marshalled for discriminatory treatment untenable. He observed, *inter alia*, that factors such as job profiles and fitness standards expected of both categories of personnel was similar, and credible empirical evidence suggested that differential retirement ages bore no rationale nexus to the objective of bolstering the morale of Central Armed Police Forces personnel.

A personality with immense knowledge and talent admired for his grasp over legal matters, Justice Muralidhar has been much sought after in various National and International conferences where he has spoken with usual eloquence, lucidity and simplicity.

Justice Muralidhar will forever be remembered for his eminence and excellence as a Judge of this Court. I am sure that he would continue his commitment to cause of Justice and preservation of Rule of Law while discharging his new role and I am sure his positive attitude, hard work and integrity will get further blossomed in the State of Punjab and Haryana.

I extend my best wishes and congratulate his beloved family members, mother: Mrs. S. Rajalaksmi, Wife: Usha Ramanathan.

I, on my behalf and on behalf of all my colleagues wish him good luck in his near future pursuits.

Jai Hind!