

**FAREWELL SPEECH ON THE RETIREMENT OF HON'BLE
MR. JUSTICE GURINDER SINGH SISTANI, THE JUDGE OF
DELHI HIGH COURT ON 06.03.2020 AT 3:00 P.M.**

JUSTICE D. N. PATEL
CHIEF JUSTICE

Justice Gurinder Singh Sistani,
My esteemed brother and sister Judges,
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 G. S. Sistani,
Ladies and Gentlemen,

We have assembled here today to bid farewell to our esteemed colleague Justice G. S. Sistani, who demits office on superannuation after a distinguished and fulfilling career.

Justice Sistani was born on 11th March 1958. He did his schooling from Frank Anthony Public School, New Delhi and completed his graduation from the prestigious Hindu College, University of Delhi and thereafter completed his Law degree from University of Delhi. He enrolled as an Advocate with the Bar Council of Delhi in 1982.

Justice Sistani started his legal practice with joining a law firm and thereafter joined his father Shri S. N. Singh Sistani, who was a reputed Senior Advocate of this Court. He practiced before Supreme Court of India, Delhi High Court, and before various other judicial fora. His practice included a diverse range of litigation mainly on Constitutional law, Banking, Taxation, Real estate, Commercial, Civil, Writ, Original and Companies jurisdiction. He was Standing Counsel for Punjab and Sind Bank. He also appeared for several other Private and National Banks, Public Sector Undertakings and other Multinational Companies. He was appointed *Amicus Curie* in various cases by this Court and worked *pro bono* for the Delhi High Court Legal Services Committee.

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

The fact that he was most even-tempered and pleasant in Court, did not deter him, from being firm where required. His ability to manage his Court, coupled with his intellectual calibre and Court etiquette, soon earned him great admiration. His Contribution has been pioneering in matters dealing with, social issues and constitutional rights, affecting rights of women, children and persons with special needs apart from the other matters.

On the administrative side, Justice Sistani served as a Member and Chairman of various committees.

He was a Member of the Administrative and General Supervision Committee; the Building Maintenance and Construction Committee; Examination cum Judicial Education and Training programme committee; Committee for appointment of officers of High Court and District Courts and Committee to take up the matter with the Government for providing the infrastructure for the subordinate judiciary.

He was Chairperson of Mediation and Conciliation Committee and was also Chairman of the Delhi State Legal Service Authority. Justice Sistani also served as Chairperson of the COFEPOSA.

There is really no jurisdiction of this Court over which he has not presided and made contribution.

Throughout his distinguished career as a Judge, Justice Sistani has delivered many landmark judgements, few of which deserve special mention.

In the case of **Isha Karwasra vs. Army Hospital and Ors.**, the Court dealt with the question of whether denial of admission of the Petitioner to the Respondent Institution on ground of non-submission of originals was on account of arbitrary, capricious and unjustified reasons? **Justice Sistani** observed that **rules of fair play, reasonableness and justice are the pillars of a civilized society** and that it was not an absolute rule, that in case a candidate does not produce originals at the time of counselling, he/she has to be denied admission to the institution. Therefore, he held that no fault could be attributed to the Petitioner because she had been denied admission for reasons, which could be termed as unjust and unreasonable, and would result in a meritorious candidate being denied admission to a prestigious institution like the Respondent's.

In the case of **Salek Ram vs. State of NCT Delhi and Others.**, the Court discussed the issue of appreciation of hostile witness evidence. **Justice Sistani** set aside the order of the Trial Court to the extent that it acquitted the accused of charges of murder under the Indian Penal Code on account of turning hostile of material prosecution witnesses. **Justice Sistani** held that evidence of hostile witness is admissible, in the trial and there is no legal bar to base a conviction upon their testimonies which are also corroborated by other reliable evidences. He further held that since, prior to the witnesses turning hostile, the prosecution had proved its case against the

accused beyond reasonable doubt, therefore the accused has to be convicted under Section 302 on charges of murder.

In the case of **Cadila Healthcare Ltd. vs. Gujarat Co-operative Milk Marketing Federation Ltd. and Others.**, **Justice Sistani** addressed the issue of usage of mark in a descriptive sense, in the context of infringement and passing-off in Trademarks. **Justice Sistani** held that the use of a descriptive expression as a trade mark by a trader, irrespective of the fact that the said trade mark has acquired a secondary meaning and distinctiveness, does not entitle such trader from precluding others from using the said expression for describing the characteristic features of their products. It further held that irrespective of the confusion, caused by the use of a descriptive expression like "sugar free", by the Defendant, a blanket injunction on the use of such a public Jurisdiction expression would inequitably allow the plaintiff to monopolise the use of such expression leading to antithetical fair competition.

Recently, in the case of **JK vs. NS**, the Court was adjudicating over the question of sole custody of two minor children claimed by their mother in an appeal under Section 19(1) of the Family Courts Act, 1984. **Justice Sistani** observed that, there is no doubt in our mind, that the mother is a primary care giver, but, we cannot shut our eyes to the fact that even the father can contribute a lot, to the upbringing of a child and, in fact, the love, affection, guidance and moral support of a father, is extremely important in shaping the life of the children. **Justice Sistani** held that thus, the requirement

of the father in the lives of the children, in our view, is, if not more, equally important for the holistic growth of the children. Paramount consideration being the crucial factor, we hold that the welfare of the children lies with both the parents and in shared parenting.

In **Ripun Bora vs. State**, the Court dealt with the interpretation of Section 482, CrPC in the case of quashing of a charge-sheet. **Justice Sistani** observed that the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires, great caution in its exercise, and the Court must be careful to see that its decision, in exercise of its power under Section 482, CrPC is based on sound principles. The Court held that if the allegations as set out in the FIR/complaint, even if taken to be uncontroverted and true, are so absurd and improbable as to shock the conscience of the court, the Court is justified in quashing such proceedings, so as to prevent, the accused from great hardship and injustice.

Justice Sistani is a multi-faceted personality, a keen sportsman, a Golfer.

It is said that a judge must have the grace to hear patiently, to consider diligently, to understand rightly and to decide justly with a sense of humility. Justice Sistani possesses all these qualities.

Justice Sistani will forever be remembered for his eminence and excellence as a Judge of this Court. He shall be in our hearts as a member of our family. I am sure that even after

retirement, he would always be eager to lend his helping hand, whenever this institution requires his services.

I extend my best wishes and congratulate his beloved family members, Wife: Mrs. Maninder Preet Sistani, Son: Mr.Gurmehar Singh Sistani, Daughter-in-law: Mrs. Natasha, Daughter: Mrs.Nayamat, Son-in-law: Mr.Apar Singh

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

Jai Hind!