

**SPEECH OF HON'BLE THE ACTING CHIEF JUSTICE IN FULL COURT**  
**REFERENCE ON 29<sup>th</sup> MAY, 2017 AT 3.00 PM ON THE SAD DEMISE OF JUSTICE**  
**LEILA SETH, FORMER JUDGE OF HIGH COURT OF DELHI**

**JUSTICE GITA MITTAL**  
**ACTING CHIEF JUSTICE**

My esteemed brother and sister Judges,

Shri Sanjay Jain, Additional Solicitor General of India;

Shri Kirti Uppal, President, Delhi High Court Bar Association;

Shri J.P.Sengh, Vice-President, Delhi High Court Bar Association;

Shri Amit Sharma, Hony. Secretary, Delhi High Court Bar Association;

Senior Standing Counsel(Civil), Govt. of NCT of Delhi;

Other Standing Counsels 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,

Family Members of Justice Leila Seth,

Ladies and Gentlemen

1. We are assembled here to express our profound sense of sorrow on the death of Justice Leila Seth, former Chief Justice of HP and judge of the Delhi High Court, which took place on 5<sup>th</sup> of May, 2017. I consider it a sad, but proud privilege, that I am allowed to pay my tribute to this great judge & lady, who championed the cause of equality for the marginalized throughout her life. One had made an indelible mark in society on the cause.

2. Born on **chhoti** Diwali day, 20<sup>th</sup> October 1930 in Lucknow, she was called “Raj Lakshmi” for a few days after she was born. Justice Leila Seth’s is an inspirational story of a multi-faceted full life, from her early years of struggle after she lost her father at the age of 12, to her straying into law while in England with her husband, to later practicing in Patna, Kolkata and Delhi; to her happy marriage of over 60 years which included raising three talented children; to her authoring several books including her autobiography – ‘*On Balance*’ written in 2003 as an 80<sup>th</sup> birthday gift to her husband Prem Seth which she **dedicated to him and her then two year old grand daughter Nandini.**

3. Her law studies happened after marriage. She describes the reason for her studying law in England in her autobiography and in interviews, “*to be the few things you could do without attending classes !*” But then she went on to become the first woman to top the Bar Examination and received a gold medal for her brilliant performance!! Her success at the 1957 London Bar exam prompted the *Star* newspaper to run a story on her with a caption, “*Mother-in-Law*”, with a picture of her holding her new-born baby-Shantum ! She was called to the Bar in England on the 26<sup>th</sup> of November 1957.

4. She practiced law in Patna **for ten years from 1959; the Calcutta High Court for three years and then the Supreme Court and Delhi High Court from January, 1972 to July, 1978.**

5. Not wanting to be pigeon holed as a woman lawyer into stereotypical divorce and custody cases, she is known to have actively sought cases involving income tax, commercial law and contracts laws where there were very few women. In the Supreme Court, where she started practicing from 1972, she also handled, writ petitions and constitutional, civil and criminal appeals.

6. She narrates a very interesting episode in her autobiography when she was looking to train under the best lawyer in Kolkata **in 1959** and narrowed it down to Mr. Sachin Chaudhary, later Finance Minister. When she met him he tried to dissuade her by saying that “*Young woman, instead of joining the legal profession, you should get married.*” When told

she was already married, he said “*then go and have a child.*” She told him she already had a child. He then said it was very selfish to have only one child and that she should have a second child. So she told him she had two children! Taken aback, he said, “*Come and join my chambers. You’re persistent and you will do well at the Bar !*” Her life shows, she achieved & really well.

7. Justice Leila Seth has many firsts to her credit in her firm walk breaking the glass ceiling in every way possible. Having topped the Bar exam in London in 1958 **at the age of 28 while managing two very young children**, she was the first woman to be designated senior advocate by the Supreme Court of India w.e.f. **10<sup>th</sup> of January 1977** and the first woman judge of the **Delhi High Court on the 25<sup>th</sup> of July 1978**.

8. She narrates an interesting incident when she was a judge of the Delhi High Court in **her autobiography**: “*One day in court I was intently reading a judgment which had been cited by one of the lawyers appearing in a case. I heard some shuffling of feet and the soft murmur of many voices. I looked up and found the courtroom absolutely packed with dozens of people standing everywhere, staring at me. I asked my reader whether any specially newsworthy case had suddenly been assigned to me. He replies ‘Oh no’ no. This crowd is a group of farmers whom Prime Minister Charan Singh has invited to Delhi to see the sights. They have just visited the zoo, and now they have come to see the woman judge in the Delhi High Court !*”

9. Having had the privilege of personally appearing before her, I have vivid recollection of such an amiable person. As a judge, she was always calm and composed. She maintained punctuality and proper decorum in court. She was courteous, polite and yet firm in handling all kinds of cases. A judge who gave full opportunity of hearing to every counsel, senior or junior, gave more latitude and encouragement to junior advocates, appearing before her in every case, irrespective of the case listed for admission or regular hearing for final disposal.

10. She passed clear, precise and short orders. Her judgements narrated the relevant facts, issues for discussion, reasons and findings within, the perimeters of the material on record. Her orders and judgements were expressed in simple language and precise terms that any one, especially the parties, could easily read and understand.

11. Justice Seth was always impeccably attired in the most beautiful handloom sarees I have ever seen. Her judda pin and bindis were not only her hall marks but, as her life story unfolds, her only visible deference to conformity & tradition.

12. In 1991, she became the first woman to be appointed **Chief Justice of any High Court** in India when she was appointed as **Chief Justice of the Himachal Pradesh High Court** on 5<sup>th</sup> August, 1991 where she served till 20<sup>th</sup> October, 1992.

13. **Justice Leila Seth** was a **Member of the 15<sup>th</sup> Law Commission of India** from 1997 to 2000. Again, the first woman ever to be so. The Commission recommended the important amendments to the Hindu Succession Act to grant equal rights to daughters in joint family property.

14. She was also a **Member of the Expert Committee on Laws of the National Commission for Women**. In 1994, she received the '*Living Legends for Law*' awarded by the International Bar Association.

15. In 2012, after the horrific Nirbhaya case, Justice Seth was again appointed **member of the important Justice Verma Committee** set up in the aftermath whose recommendations led to the Criminal Law (Amendment) Act of 2013 which completely changed the definition of rape and introduced other offences involving sexual violence.

16. After the Criminal Law (Amendment) Act, 2013, about the work of the Committee, in an interview to '*Bar & Bench*' posted on June 11, 2015, Justice Leila Seth said :

*“We made many suggestions, including a few on marital rape, and many of them havenot been [accepted]. We also brought up the question of whether rape should be treated as gender neutral or gender specific. While the Law Commission has suggested that it should be gender neutral, the Verma Commission suggested something in between, where the perpetrator is a man and the victim could either be a man or a woman. When the Ordinance was issued, it was what we suggested but then there was a huge demand from women’s groups that they wanted it to be treated as gender specific. So when the Act came out, the perpetrator was a man and the victim was a woman. The transgender and LGBT communities were left out, so I don’t think it was a right decision.”*

17. Later in several interviews, she said that she remained an optimist “*You cannot live*

*without hope*". The government had not accepted all the recommendations, it was, she said a "beginning" that the real challenge lies in changing mindsets. *"The changed law provides an immediate remedy. But changing mindsets is a slower process. And that change doesn't come fast,"* she said.

*"Nothing can change unless we first start talking. The problem is when you sweep things under the carpet,"* says Seth.

18. Inspired by her conversation with her granddaughters, Nandini, then 8 and Anamika, a 5 year old, Justice Seth wrote her second book **"We, The Children Of India"** which explains the Constitution and preamble—which Justice Seth called the "*soul of our Constitution*"—to children.

19. Her third book, *"Talking of Justice – Peoples Rights in Modern India"* is **a collection of essays on topics which mattered greatly to her.** This book was launched on her 84<sup>th</sup> birthday. It includes her essay *"You're Criminal if Gay"* which first appeared after the Supreme Court's judgment in the Section 377 case.

20. She was also writing a fourth book, a compilation of stories for children, some of them fictional, imparting values without pontifying.

21. **The range of her professional interests may be gleaned from her involvement in key public institutions beyond the strictly legal field. She was the Chairperson of the Executive Committee of the Commonwealth Human Rights Institute for several years, as well as being a Member of the "Population Foundation of India", of the Advisory Board of "Women in Security, Conflict Management and Peace" (WISCOMP), of the "Foundation of Universal Responsibility", and of "South Asians for Human Rights" (SAHR). She was Vice-President of the "World Wide Fund for Nature" (India) and responsible for their Centre for Environmental Law, and she was a Member of the Governing Board of Visva-Bharati University, Shantiniketan. Justice Seth was also one of 18 independent experts from around the globe on UNESCO's World Commission on the Ethics of Scientific Knowledge and Technology (COMEST), looking at the implications of research on human society from beyond a material perspective.**

22. She **courageously defended the rights of the LGBT community and** critiqued the Supreme Court judgment in the Suresh Kumar Kaushal case which recriminalized

homosexuality and set aside the landmark *Naz Foundation* case **judgment by the** Delhi High Court **reading** down section 377 of the IPC. Her courage in speaking up and respect for the right to sexual orientation stemmed from an ingrained sense of justice and from her personal experience of being the mother of a son who had made his sexual preference known.

23. Justice Leila Seth has considered **reservation for women in *panchayats***, the **right to information and education among the three most significant laws in the** country. On this journey, Justice Seth said that though initially she was against the concept of reservation for women. *“As I’ve got older, I have begun to realize that women have been put down for so long that reservation is absolutely essential.”*

24. For Justice Seth, a just society is an equally balanced one. *“I am one of those who wishes to walk hand in hand, not a step in front or a step behind,”* she says.

25. Justice Leila Seth has left behind her husband Prem Nath Seth; three children – Vikram, the writer; Shantum, the peace activist and Aradhana, the filmmaker; Usha Seth, sister-in-law, Mohini Seth, sister-in-law, daughter-in-law Gitu and granddaughters.

26. Her magnanimity is manifested even in her passing on as she donated her body to the cause of research.

27. Justice Leila Seth was a stalwart, who has left a memory of a great name, an enduring legacy of the stereo types which she demolished; of having created a blazing trail, so that the path of others, including myself, is made easier.

28. Her book *“**We the Children**”* ends with a poem which so aptly describes the spirit of Justice Leila Seth. So I end with the words which she wrote :

I quote :

*“Let's be equal, just and free-*

*Strong in our diversity:*

*Free in thought and free in prayer,*

*Free to dream and free to dare,*

*Free to love and free to care.*

*Let's be **equal**, just and free-*

*Strong in our diversity."*

*"Let's be **equal**, free and just,*

*Unified in love and trust:*

*Strong to lend the weak a hand,*

*Strong to help and understand,*

*Strong to build a happier land.*

*Let's be equal, free and just,*

*Unified in love and trust."*

Yet another courageous statement by Justice Leila Seth – another reflection of her indomitable spirit.

**(GITA MITTAL)**

**ACTING CHIEF JUSTICE**