

13th July, 1932 - 6th March, 2019

Full court Reference in the memory of

Late Hon'ble Mr. Justice K. Ramaswamy

Former Judge, Supreme Court of India

held on Wednesday, the 24th April, 2019 at 10.30 a.m. in the Court of The Hon'ble the Chief Justice of India

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Letter from the Registrar, Supreme Court of India

F.No.99/Ref/2019/SCA(Genl) Dated the 26th April,2019

Shri Katikithala Srinivas, C7, Tower 9, New Moti Bagh **New Delhi 110023.**

Sir,

There was a Full Court Reference in the Hon'ble Chief Justice's Court on 24th April, 2019 in the memory of late Hon'ble Mr. Justice K. Ramaswamy, former Judge, Supreme Court of India. Rich tributes were paid to His Lordship by Hon'ble Shri Ranjan Gogoi, Chief Justice of India, Shri K.K. Venugopal, Attorney General for India and Shri Rakesh Kumar Khanna, President, Supreme Court Bar Association. After the references were read, two minutes' silence was observed. I am enclosing herewith copies of the references made by Hon'ble the Chief Justice of India, Ld. Attorney General for India and President, Supreme Court Bar Association.

Kindly permit me to convey the heart-felt condolences of the Officers and members of the staff of the Supreme Court Registry to you and other members of the family.

Yours sincerely,

26.04.19

Registrar

Encls: As above

List of Business for 24th April 2019 in respect of Full Court Reference



SUPREME COURT OF INDIA

LIST OF BUSINESS FOR WEDNESDAY THE 24TH APRIL, 2019

CHIEF JUSTICE'S COURT

AT 10.30 A.M.

FULL COURT REFERENCE IN THE MEMORY OF LATE HON'BLE MR. JUSTICE K. RAMASWAMY AND LATE HON'BLE MR. JUSTICE S.B. SINHA, FORMER JUDGES, SUPREME COURT OF INDIA

Coram of Hon'ble Judges at the Full Court Reference

- Hon'ble Mr. Ranjan Gogoi, Chief Justice of India
- * Hon'ble Mr. Justice S. A. Bobde, J.
- ♦ Hon'ble Mr. Justice N. V. Ramana, J.
- * Hon'ble Mr. Justice Arun Mishra, J.
- * Hon'ble Mr. Justice R. F. Nariman, J.
- * Hon'ble Mr. Justice A. M. Sapre, J.
- * Hon'ble Mrs. Justice R. Banumathi, J.
- * Hon'ble Mr. Justice U. U. Lalit, J.
- Hon'ble Mr. Justice A. M. Khanwilkar, J.
- * Hon'ble Dr. Justice D. Y. Chandrachud, J.
- Hon'ble Mr. Justice Ashok Bhushan, J.
- Hon'ble Mr. Justice L. Nageswara Rao, J.
- * Hon'ble Mr. Justice Sanjay Kishan Kaul, J.
- * Hon'ble Mr. Justice M. M. Shantanagoudar, J.
- * Hon'ble Mr. Justice S. Abdul Nazeer, J.
- Hon'ble Mr. Justice Navin Sinha, J.
- Hon'ble Mr. Justice Deepak Gupta, J.
- * Hon'ble Ms. Justice Indu Malhotra, J.
- Hon'ble Ms. Justice Indira Banerjee, J.
- Hon'ble Mr. Justice Vineet Saran, J.
- Hon'ble Mr. Justice K. M. Joseph, J.
- Hon'ble Mr. Justice Hemant Gupta, J.
- Hon'ble Mr. Justice R. Subhash Reddy, J.
- Hon'ble Mr. Justice M. R. Shah, J.
- Hon'ble Mr. Justice Ajay Rastogi, J.
- Hon'ble Mr. Justice Dinesh Maheshwari, J.
- Hon'ble Mr. Justice Sanjiv Khanna, J.

Reference made on 24th April, 2019 by

Hon'ble The Chief Justice of India Shri Ranjan Gogoi

in the memory of

Late Mr. Justice K. Ramaswamy, Former Judge, Supreme Court of India

My Brother and Sister Judges, Mr. K.K. Venugopal, Attorney General, Mr. Tushar Mehta, Solicitor General, Mr. Rakesh Kumar Khanna, President, Supreme Court Bar Association, Mr. Shivaji M. Jadhav, President, Supreme Court Advocates-on-Record Association, Learned Senior Advocates, Law Officers and other members of the Bar, Family members of Late Mr. Justice K. Ramaswamy and Late Mr. Justice S.B. Sinha, Members of the Registry, Ladies and Gentlemen.

We have assembled here this morning with a profound sense of grief to pay homage to two distinguished members of our fraternity who had shown their distinction in their own way.

Late Justice K. Ramaswamy a distinguished former Judge of this Court, left for heavenly abode on 06.03.2019 at the age of 86 years.

Justice K. Ramaswamy was born on 13.07.1932 in West Godavari District of Andhra Pradesh. He was enrolled as an Advocate on 09.07.1962 and practiced in Civil and Criminal side. During his years of legal practice, he also served as an Additional Public Prosecutor from 1972 to 1974 and as Government Pleader in the year 1974 in the Andhra Pradesh High Court. He also served as Senior Standing Counselfor Andhra Pradesh State Electricity Board from 1981 to 1982. He was appointed as an Additional Judge of the Andhra Pradesh

High Court on 29.09.1982 and had become permanent Judge of the same High Court on 26.11.1982. He was elevated to the bench of Supreme Court of India on 06.10.1989 and retired on 12.07.1997. During his tenure at the Supreme Court, Justice Ramaswamy also served as Executive Chairman of the NALSA. After his retirement he also served as a member of the NHRC from November 1998 to July 2002.

Justice Ramaswamy has rendered many landmark Judgments during his tenure as Judge of this Court. His legal acumen is reflected by the fact that out of 2321 cases in which he was part of the coram, he himself has delivered 1919 judgments. His first judgment delivered in the court was Sushil Kumar Mehta vs. Gobind Ram Bohra {Reported in 1989(2)Suppl. SCR 149} and the last judgment given by him on 11.07.1997 was in the case of Hyderabad Abrasives & Minerals Pvt. Ltdvs. State of Andhra Pradesh {Reported in 1997(8) SCC 191}.

One of his notable judgments was delivered in the case of C. Ravichandran Iyer vs. Justice A.M. Bhattacharjee in which guidelines were laid down with regard to matters alleging misconduct against the Judges of High Court.

Another important judgment delivered by His Lordship was in the case of Samatha vs. State of Andhra Pradesh {Reported in 1997 (8) SCC 191}, in which he has elaborated the scope and content of 'right to life' and upheld the rights of tribals on their lands in tribal areas. Some of the other important judgments delivered by His Lordship are as under:

- * S.R. Bommai vs. Union of India {1994 (3) SCC 1}
- Krishna Swami vs. Union of India {1992 (4) SCC 605}
- Dalmia Cement (Bharat) Ltd. vs. Union of India {1996 (10) SCC 104}

- Consumer Education & Research Centre vs. Union of India {1995 (3) SCC 42}
- State of Karnataka vs. Appa Balu Ingale {1995 Supp (4) SCC 469}

Justice Ramaswamy was also involved in philanthropic activities, such as the establishment of charitable institutions to extend economic, educational, social and healthcare support for economically marginalized and socially excluded people particularly in the rural areas.

Justice K. Ramaswamy is survived by a son, and two daughters.

Reference made on 24th April, 2019 by

Attorney General for India Shri K. K. Venugopal

in the memory of

Late Mr. Justice K. Ramaswamy, Former Judge, Supreme Court Of India

Hon'ble Chief Justice of India, Justice Ranjan Gogoi; Hon'ble Judges of the Supreme Court; Shri Rakesh Khanna, President of the Supreme Court Bar Association; Office Bearers of the Association; Shri Shivaji Jadhav, President of the Supreme Court Advocates-on-Record Association; Office Bearers of the Association; Learned Solicitor General of India, Shri Tushar Mehta; Additional Solicitors General; respected members of the Bar; family members of Late Jus. K. Ramaswamy:

We are assembled here today to pay homage to Late Jus. K. Ramaswamy.

Justice K. Ramaswamy, served as Judge of this Hon'ble Court from 1989 to 1997, a period of 8 years, during which he delivered 2227 reported judgments, covering several branches of law, which is the highest number of cases decided by any judge of the Supreme Court!

Born in 1932 in the West Godavari District in the then State of Andhra Pradesh, he came from a rural and agricultural background, and suffered many deprivations in his early life. Yet,

with hardwork and dedication, he overcame economic and social barriers and strode the path of educational and professional excellence.

He graduated in Law from the Andhra University Law College and thereafter enrolled as an advocate in 1962. He practiced first at the High Court of Andhra Pradesh, where he was appointed Additional Public Prosecutor from 1972 to 1974 and then as Government Pleader in 1974. He also served as Senior Standing Counsel for the Andhra Pradesh State Electricity Board from 1981 to 1982.

In September 1982, he was appointed as additional judge of the Andhra Pradesh High Court, and two months later, he was made a permanent judge.

Seven years later, in October 1989, he was elevated as Judge of the Supreme Court. It was perhaps his background that made him treat the high office he held as a calling and a duty rather than as an entitlement. He used his position as Judge of this Court, which has been called the most powerful court, to advance social justice. He is known for his constitutional constructivism and for taking a pro-poor approach.

His judgment in Samatha v. State of Andhra Pradesh and Ors. [(1997) 8 SCC 1] was a seminal one, that has since guided future decisions in all matters pertaining to the rights of tribal communities. His statement that "Agricultural land is the foundation for a sense of security and freedom from fear. Assured possession is a lasting source for peace and prosperity." is clearly one out of personal experience, which gave him a deeper insight and understanding of the issues. In that judgment, Jus.

Ramaswamy held that mining activity in tribal lands can go on as long as it is undertaken by the government, or instrumentality of state or a cooperative society of the tribals.

In his separate judgment in S.R. Bommai and Ors. v. Union of India [(1994) 3 SCC 1], Jus. Ramaswamy stated that:-

"Secularism is a part of the basic feature of the Constitution. Political parties, group of persons or individual who would seek to influence electoral process with a view to come to political power, should abide by the Constitution and the laws including secularism, sovereignity, integrity of the nation.....Programmes or principles evolved by political parties based on religion amounts to recognising religion as a part of the political governance which the Constitution expressly prohibited it. It violates the basic features of the Constitution. Positive secularism negates such a policy and any action in furtherance thereof would be violative of the basic features of the Constitution."

These are only a few of the many lines that are worth reading by every citizen. The principles that he laid down in S.R. Bommai are, today, the cornerstone for Centre - State relations and for upholding secular principles.

In Madhu Kishwar and Ors. v. State of Bihar and Ors.[(1996) 5 SCC 125], Jus. Ramaswamy upheld gender equality in matters of inheritance, by observing that:

"When male member has the right to seek partition and at his behest, fragmentation of family holding is effected, why not the right to inheritance/succession be given to a female? On agnatic theory, she gets a shadow, but not substance. Right to equality and

social justice is an illusion. The denial is absolutely inconsistent with public policy, unfair, unjust and unconscionable."

His brother judges were often impressed with Jus. Ramaswamy's judgments. In Madhu Kishwar, Jus. MM Punchhi, in his judgment stated:

"We have read with great admiration the opinion of our learned brother K. Ramaswamy, J. prepared after deep and tremendous research made on the conditions of the tribal societies in India, leave alone the State of Bihar, and in drawing a vivid picture of the distortions which appear in the regulation of succession to property in tribal societies, when tested on the touchstone of the codified Hindu law now existing in the form of The Hindu Succession Act, 1956 etc."

During his tenure at the Supreme Court, Justice Ramaswamy also served as Executive Chairman of the National Legal Services Authority (NALSA), from 1995 to 1997.

Following his retirement, he has served as a member of the National Human Rights Commission from 1998 to 2002, as Chairman of the Advisory Committee on Social Justice which was constituted for reviewing the working of the Constitution, as Chairperson of legislation committee on atrocities on dalits and adivasis, and as member of the Dr. Ambedkar National Awards Jury Committee.

What is little known, is that he was a philanthropist. With a deep commitment to the cause of rural development, he invested himself in developing his native village as a model village with facilities and services. He established a hospital in the name of his wife, Shyamala Devi, ensured water and electricity connections to

all, established an elementary school, a library building and a community hall, sanitation facilities in all houses, tar-topped and cement roads – all of this was accomplished over 20 years back!

He was a humanitarian and lived a full life. His greatness was his kindness. He passed away on 6thMarch, 2019 leaving us with gratitude for his selfless work.

Jus. Ramaswamy is survived by two daughters, the eldest a banker and the younger, a Professor at Osmania Medical College, and a son, who is a senior IAS Officer serving as Additional Secretary, Government of India. His granddaughter, Gargi, has chosen to follow his footsteps and has joined the legal profession.

I offer our deepest condolences to them and pray that his soul may rest in peace.

Reference made on 24th April, 2019

бу

Shri Rakesh Kumar Khanna (Sr.)
President, SCBA
in the memory of

Late Mr. Justice K. Ramaswamy

&

Late Mr. Justice S. B. Sinha, Former Judges, Supreme Court Of India

- 1. My Lord, Hon'ble Mr. Justice Ranjan Gogoi, Hon'ble The Chief Justice of India,
- 2. Hon'ble Judges of this venerable Court,
- 3. Shri K.K. Venugopalji, Ld. Attorney General for India,
- 4. Shri Tushar Mehta, Ld. Solicitor General of India and other Law Officers,
- 5. Executive Members of the SCBA, SCAORA and other Bar Associations,
- 6. Distinguished members of the Bar,
- 7. Family members of the Late Justice Ramaswamy and Justice SB Sinha,

And my dear brother and sister colleagues...

While interviewing for a documentary in 1994, Nelson Mandela had appositely stated that "death is something inevitable. When a

man has done what he considers to be his duty to his people and his country, he can rest in peace." As members of a collective conscience, our raison d'être therefore was never to try and live forever but to create something that will.

It is precisely that sempiternal legacy of My Lords, Justice Ramaswamy and Justice Sinha, that has intrinsically gravitated this august gathering to solemnly congregate here today and pay homage to their memories.

Justice K. Ramaswamy

Justice Katikithala Ramaswamy was born into a dalit family during the early hours of October 11, 1933 in the hamlet of Kakileru, which is situated in the West Godaveri District of Andhra Pradesh.

Right from a young age, Justice Ramaswamy was no stranger to hardships. He lost his mother when he was just 18 months old, was disowned by his stepmother and never received any support from his father. Adding to his misfortunes, he lost his grandparents who had lovingly fostered him till boyhood and was compelled to work in penury as an orphaned agricultural labourer for his own sustenance.

However, his indomitable spirit and insatiable hunger for knowledge not only saw him top the 'Adarsh Class' that had been set up in his school for grooming talented students, but also saw him secure a first-class distinction in his SSLC Examination, proving that god only helps those who help themselves.

His Lordship managed to pursue his graduation in Arts from the West Godavari Bhimavaran College (now renamed as the Dantuluri Narayana Raju College) by supplementing his own savings with a loan from his agricultural employer and by further continuing to offer his services to him as an agricultural labourer.

After negotiating his marriage himself, Justice Ramaswamy pursued his bachelors in Law from the Andhra University Law College, Vishakhapatnam with the intent of becoming a Gazetted Officer.

His Lordship enrolled as an advocate on the 9th of July 1962 and joined the office of Shri P.R Rao, where he worked from December 1962 till May 1964. Thereafter he became a part of the State Brief Panel of the Andhra Pradesh High Court and pursued an independent career in litigation.

Subsequently, Justice Ramaswamy was appointed as the Additional Public Prosecutor on the 17th of December 1970, becoming the first Dalit law officer in the country as well as the youngest with only eight years of standing at the Bar. His Lordship was appointed as a Government Pleader in the High Court of Andhra Pradesh in October 1974. He also worked as the Associate Editor of the Andhra Pradesh Law Journal from the year 1971 to 1981.

His Lordship was elevated as an Additional Judge of the Andhra Pradesh High Court on the 29th of September 1982 and was subsequently appointed as a permanent Judge thereof on November 26, 1982. He also served as the Vice-President of the International Jurists Organisation (Asia) in the year 1989, before finally being elevated to the Hon'ble Supreme Court of India on the 6th of October 1989.

During his tenure as a judge of this Hon'ble Court, Justice Ramaswamy authored numerous landmark judgments and contributed to several others. However, for the sake of brevity, I shall only adumbrate a few of them.

In the famous case of C. Ravichandran Iyer v. Justice A.M. Bhattacharjee, His Lordship had laid down cogent guidelines apropos

to probing allegations of misconduct against Judges of the Supreme Court and the High Courts.

In the case of Samatha v. State of Andhra Pradesh, Justice Ramaswamy had taken conscious steps to ensure the effective enjoyment of all the constitutionally guaranteed rights and protections to all the members of the forest communities residing in India.

In the case of Mrs. Valsamma Paul v. Cochin University & Ors, Justice Ramaswamy had eruditely propounded the idea that intercaste marriages and adoptions are two important social institutions through which secularism could find a fruitful and solid base for an egalitarian social order under the constitution.

My Lord, Justice Ramaswamy also served as the Executive Chairman of the National Legal Services Authority (NALSA) from August 1995 till the date of his retirement in July 1997. His Lordship took special interest in promoting Lok Adalats and was renowned for the phenomenal rate at which cases were settled therein under his charge.

During his tenure as Chairman, nearly 8,077 Lok Adalats were held and approximately 14,52,348 cases were settled as on December 1996.

Following his retirement, Justice Ramaswamy served as a member of the National Human Rights Commission from November 1998 till July 2002, wherein he ardently worked on the issues of bonded labour and child labour. He also chaired the Advisory Panel on the 'Pace of Socio-Economic Change and Development under the Constitution' for the 'National Commission to Review the Working of the Constitution.'

His Lordship's work was always informed by a sensitive, deep and abiding concern for the poor and the discriminated. If one were to peruse through the many travails endured by Justice Ramaswamy during his lifetime, they would indisputably agree that he personified man's innate ability to elevate his own self through relentless endeavour and ceaseless will, exemplifying the adage that the best place to find a helping hand is at the end of your own arm.

Justice S.B. Sinha

Justice Satya Brata Sinha had an unparalleled capacity to work indefatigably, which endearingly earned him the fitting sobriquet 'The Workaholic Judge' from his colleagues and members of the Bar.

Thomas Jefferson, the Third President of the United States of America, in a letter to his wife in the year 1787, had famously advised her as under:

"Determine never to be idle. No person will have occasion to complain of the want of time, who never loses any. It is wonderful how much may be done, if we are always doing."

Nobody exemplified those words better than My Lord Justice Sinha. It is said that the difference between ordinary and extraordinary is that little extra, but in His Lordship's case, he made sure to invest a whole lot of extra.

Justice Sinha was born on the 8th of August 1944 at Dhanbad. After successfully clearing his Matriculation Examination from the H.E. School, Dhanbad, His Lordship pursued a degree in Law from the Chota Nagpur Law College and received his Bachelor of Laws in the year 1967.

Justice Sinha commenced his distinguished legal career as an advocate in the Dhanbad District Court in the year 1968 and later

transposed his practice to Ranchi in the year 1976, after the Permanent Bench of the Patna High Court had been constituted therein.

In recognition of his legal acumen and assiduous temperament, His Lordship was designated as a Senior Advocate by the Patna High Court and was also appointed as the first Government Advocate of its Ranchi Bench.

Justice Sinha was elevated as a Judge of the Patna High Court on the 9th of March 1987. Subsequently, His Lordship was transferred to the Calcutta High Court on the 11th of May 1994, where he later served as the Acting Chief Justice thereof in the year 1999.

From the December of 2000 till the November of 2001, Justice Sinha served as the Chief Justice of the High Court of Andhra Pradesh, before being appointed as the Chief Justice of the Delhi High Court on the 26th of November 2001. His Lordship was elevated to the Hon'ble Supreme Court of India on the 3rd of October 2002.

During his long and illustrious tenure as a judge of this Hon'ble Court, My Lord Justice Sinha has exceptionally authored more than 1,511 judgments with an unprecedented 365 dissents. Cumulatively speaking, His Lordship contributed to an impressive aggregate of over 2,073 judgments as a judge of this Hon'ble Court.

Any attempt, therefore, to summarize the entirety of His Lordship's legacy in such a short time would be a disservice thereto and hence I shall endeavour to succinctly highlight only a few of them.

In the landmark case of Zee Telefilms Ltd. & Ors. v. Union of India & Ors, His Lordship had famously dissented from the majority judgment penned by Justice Hegde and held that the writ petition was maintainable as the Board of Control for Cricket in India (BCCI)

answered the description of "other authorities" as contained in Article 12 of the Constitution and satisfied all the legal tests therefor, resultantly making it a state actor.

In the case of Anuj Garg v. Hotel Association of India, His Lordship had eruditely held that legislations encapsulating majoritarian impulses rooted in biological, social and cultural determinants and moralistic traditions, which impinge upon individual autonomy deserve deeper and heightened judicial scrutiny.

In the case of S.K. Satishbhushan Bariyar v. State of Maharashtra, Justice Sinha had cogently observed that the constitutional role of judiciary also mandates taking a perspective on individual rights at a higher pedestal than majoritarian aspirations, while holding that apart from the Doctrine of Proportionality, the Doctrine of Rehabilitation should also be taken into consideration, particularly in light of Section 354(3) of the Cr.PC, which must be read with Article 21 of the Constitution.

After his retirement on August 8, 2009, His Lordship was appointed as the Chairman of the Telecom Disputes Settlement and Appellate Tribunal (TDSAT) where he served for three years until the end of 2012.

Post-retirement from the TDSAT, Justice Sinha was an extremely sought-after arbitrator and was appointed in several commercial matters involving high stakes.

Justice Sinha was a man of few words, but His Lordship spoke verbosely through his judgments, dissents, arbitration awards and legal opinions. The legal fraternity has lost a stellar jurist who has contributed immensely to the Indian jurisprudence.

On this solemn occasion, I am reminded of a few words by Emily Dickenson, which appropriately capture the moment and the essence of their Lordships' immortal legacies...

"Because I could not stop for Death,

He kindly stopped for me...

The Carriage held but just Ourselves,

And Immortality."

On behalf of the entire Bar and my own behalf, I respectfully join My Lords in extending our heartfelt condolences to the bereaved family members of the Late Justice K. Ramaswamy and Justice S.B. Sinha. May their souls rest in peace. Thank you.

List of Attendees at the Full Court Reference

- Shri K.K. Venugopal,Ld. Attorney General for India.
- Shri Tushar Mehta,
 Solicitor General of India.
- Shri N.S. Nadkarni,
 Additional Solicitor General of India.
- Ms. Pinky Anand,
 Additional Solicitor General of India.
- Shri Vikramjit Banerjee,
 Additional Solicitor General of India.
- Shri Aman Lekhi,
 Additional Solicitor General of India.
- Ms. Madhaví Goradía Dívan,
 Additional Solicitor General of India.
- Shri K.M. Nataraj,
 Additional Solicitor General of India.
- Shri Sanjay Jain,
 Additional Solicitor General of India.
- Shri Rakesh Kumar Khanna, President, Supreme Court Bar Association.
- Shri Jitender Mohan Sharma,
 Vice President,
 Supreme Court Bar Association.

- Shri Vikrant Yadav,
 Hony. Secretary,
 Supreme Court Bar Association.
- Shri Shivaji M. Jadhav,
 President,
 Supreme Court Advocate-on-Record Association.
- Shrí Prashant Kumar,
 Více Presídent,
 Supreme Court Advocate-on-Record Association.
- Shrí Snehasísh Mukherjee,
 Hony. Secretary,
 Supreme Court Advocate-on-Record Association.
- * And other Ld. Advocates of the Bar.

Family Members of

Late Hon'ble Mr. Justice K. Ramaswamy Former Judge, Supreme Court of India at the Full Court Reference

- Dr. Jaya Nelli, Daughter
- * Mr. Katikithala Srinivas, Son
- * Mrs. Katikithala Bindu, Daughter-in-law
- Mr. Raju Nellí, Son-ín-law
- * Ms. Aishwarya Nelli, Grand Daughter
- * Mr. Veeraju Nelli, Grandson
- * Ms. Gargi Katikithala, Grand Daughter



THE SUPREME COURT OF INDIA

New Delhi - 110001 India