

FAREWELL SPEECH ON THE RETIREMENT OF HON'BLE MR.JUSTICE  
SUDERSHAN KUMAR MISRA DELIVERED ON 06.09.2016

G. ROHINI  
CHIEF JUSTICE

Justice Sudershan Kumar Misra,

My esteemed brother and sister colleagues,

Shri Sanjay Jain, Additional Solicitor General,

Shri Rajeev Khosla, 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 Raman Duggal, Standing Counsel (Civil), Govt. of NCT of Delhi

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

Other Standing Counsel 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 Misra, and

Ladies and gentlemen.

We have assembled here today to bid farewell to Justice Sudershan Kumar Misra, who is demitting the office today after rendering distinguished service to this Court for more than nine years. I can say without any hesitation that with the retirement of Justice Misra, the Bench and Bar of the Delhi High Court will be losing a brilliant and illustrious Judge.

Born on 7<sup>th</sup> September, 1954, Justice Misra did his schooling from Delhi Public School and Graduation from Hindu College, Delhi University. After completing his law from Delhi University, Justice Misra enrolled with the Bar Council of Delhi in October, 1978. He had actively practiced in the High Court and was Standing Counsel for the Central Government for a period of four years from 1985 to 1989. He was designated as Senior Advocate in the year 1994.

Apart from Union of India, Justice Misra also represented various important statutory bodies like Union Public Service Commission, Delhi Vidyut Board, Central Board of Secondary Education, Municipal Corporation of Delhi etc. As a result of his outstanding professional caliber, Justice Misra was appointed as Additional Judge of this Court on 4<sup>th</sup> July, 2007 and as permanent Judge on 7<sup>th</sup> November, 2008.

Having been a perfect communicator and a proficient administrator coupled with his deep interest and understanding in law, Justice Misra has proved himself to be a very successful judge.

There is no branch of law which remained untouched by Justice Misra during his tenure. Be it cases involving tricky questions in the field of intellectual property rights or complicated issues in the realm of civil, criminal and constitutional law, Justice Misra was at ease dealing with them all.

I find it worth mentioning that during the tenure of Justice Misra as Company Judge from 1<sup>st</sup> July, 2009 to 17<sup>th</sup> October, 2010, he had disposed of a total of 3776 cases at an average rate of 14.84 cases per day.

As a Company Judge, Justice Sudershan Kumar Misra adopted several innovative practices such as issuing comprehensive and specific directions to the company while issuing the show cause notice in winding up proceedings to disclose all relevant particulars about its assets, records as well as the its Directors and Principal Officers. Similarly, once the provisional liquidator is appointed a detailed set of directions were included in the same order authorizing him to not only take over assets and books of accounts of the company but also to make an inventory and proceed with valuation of assets forthwith. All this has had a salutary effect including increasing the effectiveness and efficiency of the process of liquidation under the Companies Act. He also initiated a number of far reaching changes on the administrative side thus making the office of the Official Liquidator, probably the most organized liquidator's office in the country.

Justice Misra is well known and respected for his honesty and integrity which are essential qualities of a good judge.

His distinguished tenure as a Judge of the Delhi High Court is dotted with many landmark and path breaking judgments on procedural as well as substantive laws including Constitutional Law, Criminal Law, law relating to Intellectual Property Rights, Taxation, Company Law, Rent Control, etc.

Some of his important judgments include *Ex. ASI Shadi Ram vs. Govt. of NCT of Delhi*, which was decided in 2008 [W.P.(C) No.5544/2007 decided on 22.2.2008], wherein while examining the scope and application of the proviso to Rule 41 of Central Civil Service (Pension) Rules dealing with the grant of compassionate allowance to a dismissed employee as well as the guiding principles therefor, it was held that there is an element of decision-making involved in disposing of an application for grant of Compassionate Allowance. It was also held that rejection of the application of a dismissed officer for compassionate allowance under Rule 41 which is based solely on the fact of the said officer's dismissal for a solitary incident involving dishonesty was bad in law.

In the case of *Vodafone Essar Ltd.* [Company Pet. No.334/2009 decided on 29.03.2011], rendered in connection with a scheme of arrangement involving demerger of Passive Infrastructure Assets into a group company, it was held that the expression ‘arrangement’ will also include a gift and an arrangement contemplating a gift is not synonymous with an arrangement which is confiscatory in nature. It was further held that relinquishment of a right by a donor by way of gift or otherwise does not amount to a total surrender of what is being gifted and that the words “gift” and “surrender” are not synonymous and cannot be used interchangeably.

In a recent decision in *Forech India Ltd. Vs. Tecpro Systems Ltd.* [Company Petition No.42 of 2014 decided on 05.09.2016], an application was moved by the Respondent, that is, the company in liquidation praying for keeping the winding up proceedings in abeyance on the ground that the proceedings for revival of the company are pending before the BIFR. While allowing the said application and directing to keep the winding up proceedings in abeyance in view of the bar contained in Section 22(1) of the Sick Industrial Companies Act, 1985, it was held by Justice Misra that in winding up proceedings it is necessary for the Court to satisfy itself about the genuine viability of the company and that the said obligation assumes greater significance in the light of Sections 531, 531A, 441, 536 and 537 of the Companies Act, 1956.

The decision in Mahavir C Singhvi v Union of India, which was rendered by him in the year 2008, while sitting in the Division Bench with Justice Manmohan Sarin and Mohammed Dilvar Mir v CBI decided on 19.11.2014 while dealing with a criminal appeal arising under the Prevention of Corruption Act, 1988 are also some of the significant judgments rendered by him.

There are many more remarkable judgments rendered by Justice Misra. Though, it may not be possible to refer them all on this occasion, it can be said without any hesitation that the decisions rendered by Justice Misra stand out for their brevity of expression and clarity of thought.

Justice Misra has also rendered his valuable contribution in the well being of the institution in his capacity as the Chairman of the Building Maintenance & Construction Committee, Saket Court Complex and as Chairman of the Environment Committee.

Courageous, fearless and candid, Justice Misra, was uncompromising, firm and unbending when it came to upholding the Rule of Law and independence of judiciary. His firmness and disregard of all considerations except his principles and convictions were reflected on many occasions during his tenure as Judge of this Court. His contribution to the cause of justice will always be remembered and cherished.

On my behalf and on behalf of my brother and sister Judges, I wish him success in all his pursuits. “May the choicest blessings of the Almighty be showered on him for more happy, healthy and prosperous years to come”.

Thank you.