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DESIGNATION OF SENIOR ADVOCATES - THE PURPOSE ?

By

—MOHD. IMTHIAZUDDIN,

Senior Advocate

Under Chapter -III Section 16 of the Advocates Act 25 of 1961 “There shall be two classes of Advocates namely SENIOR Advocates and other Advocates”. Supreme Court or a High Court if were to be of opinion that by virtue of ability, standing at the Bar or special knowledge or experience Advocates who deserves distinction may be designated as SENIOR Advocates. Under Section 23 (5) Senior Advocates shall have pre-audience over other advocates. As per the Restrictions on Senior Advocates (under Part-VI Chapter-I), he shall not accept instructions to draft pleading or Affidavits, Advice on evidence, advice on grounds of Appeal in a Court Appeal or undertake conveyancing work of any kind whatsoever.

By virtue of the aforementioned provisions governing the Senior Advocates they are placed as much equal as Judges of the Supreme Court and High Court since the gowns they wear are similar to that of the Judges. Taking into consideration the designation conferred by the Judges forming an opinion about the ability, knowledge and experience before conferring the distinction of Senior Advocate, the Court as well as the Government should take advantage to utilize their knowledge, experience and ability. Otherwise creating two classes of Advocates will neither serve any purpose nor does it enhance the prestige either of the advocate or of the Court. In recognition of the distinction conferred Senior Advocates

should be appointed as a Chairman of Forums like Commission of enquiry, Tribunals, Arbitrations, which are being entrusted to the “Retired Judges”. A Retired Judge has to lead a Retired life to devote more to his personal comforts and his family because right through virtually they are prevented to attend on their preferences, due to pressure of work. In almost all those Acts in which the reference for an appointment is made as amongst the Retired High Court or Supreme Court Judges, it should be replaced by “Designated Senior Advocate”. In the Advocates Act 25 of 1961 also an appropriate clause should be added enabling the Supreme and High Court to maintain a list of Senior Advocates so that as and when Government approaches the Court for such appointments, Senior Advocates name may be sent forthwith. This will solve to a great extent clearing the shadow of stigma that a Judge before retirement aspires for some post or other. Can it be said that being a Judge for couple of years will have a better judicial vision and competency in administration of Justice to dispense than an Advocates with longer standing at the Bar? A Judge retires at the age of 65 and 62 whereas an Advocate gives up practice only after consistently practicing for more than 40 full years. That apart in some cases Judges still in service are entrusted with Enquiries thereby disturbing the work of the Court resulting in non-disposal of the cases.

As a matter of fact, the judgments of today are different in many and every aspect of yester years judgment. Advocates who were in real sense leader of the Bar in professional excellence were disturbed and persuaded to accept to adorn the Bench. During their tenure as an Advocate they aspire for a legal perfection by laying their hand on Halsburys Laws of England, *Corpus Juris Secundum* and Treatise on various Laws by English and American Authors like *Lindleys*, *Austin* and several others apart from knowledge of Law Lexicon basing upon which they use to formulate Point of Law. The facts pertaining to the case and the issues involved and concluded were to be on their fingertips. Equally so the Bench adorn by such Advocates as Judges in their own right with an open mind and a clear legal vision express their opinion in a form of judgment with perfection to hold good as a Law of the Land based upon wisdom in separating chaff from the grain. Neither such Bar nor such Bench is within the sight in the present days. There is no pick and chose now but only a promotion of the Juniors attached to the chambers of the then Advocates who have become a Judge, and only those Advocates who served the politician outside the arena of Courts and those who are nearest and dearest to the class of people who yields extraordinary

power - otherwise known as extra constitutional power of influence. The present judgments are as could be seen so voluminous that all the cases referred for and against find place virtually appearing like a complication of all the judgments on the earth. In the concluding para it ends as "It is HELD" therefore "I HOLD". In other words the judgments are "HELD" and "HOLD" judgments. If that be the case, a Senior Advocate could do better if not worst if their services are utilized and appointed them as Chairman of Tribunals. One Man Commission Arbitrators and so on. By appointing Senior Advocates, the work of Court will not suffer for want of Judges. Equally so the greatest human weakness otherwise known as desire to attach themselves to the various Forums by the Judiciary after retirement will vanish. In other words if it is not a feasible proposition to utilize the services of Senior Advocates the distinction conferred on some Advocates as Senior Advocates leaving behind the others as ordinary Advocates is a classification without reason and purpose to achieve. In fine either hold them (Senior Advocates) as distinct as they should by utilising their services or remove such distinction which serves neither any purpose nor does it contribute efficiency either among the Advocates or the legal profession.

SEEKING A NEW PARADIGM FOR VICTIMS SAKE

By

—**V.R.K. KRUPA SAGAR**, B.Com., L.L.M.,
II Addl. Judl. Magistrate of First Class, Ongole

We see a problem only in the way we wanted to see it. We are bound to see a problem in the way our mind is conditioned to think. The orientation of the adjective law, so far as crimes and criminals is concerned, is accused oriented and therefore

it is presumed that accused is innocent until his guilt is proved. To prove the guilt, it is not enough to produce evidence in abundance. The evidence must be adduced in the manner that is provided in the Code of Criminal Procedure. Though it is well-