

## Transcript of Justice L. Nageswara Rao's Address

Rohinton, Ashok, Ramakrishna!

Judges of the Supreme Court – past & present, Judges of the High Court, Justice Goel, Chairman of NGT, Attorney-General, Members of the Bar – Senior and the other junior friends, Rajkumar, Director of Jindal Global University and my friends, and family who are here for this Book Launch – God Morning!

Before I start this small lecture, I take this opportunity to congratulate Justice Vishwanathan on his elevation yesterday. On my behalf and on your behalf, I wish him all the best. He will be an excellent addition to the Supreme Court and I have no doubt that he will keep the flag flying very high. I also invite Justices Ramasubramanian and Rastogi – joining our club. Both of them, I think, will be retiring in June. There are others [here] who have already joined the Club – Justice Hemant Gupta and others. As Justice [M.R.] Shah was saying – it is only second innings and it is not as if we have retired, we will only be doing something better.

### ***'How I wish Rohinton writes a Book on Corporate Insolvency'***

I try to keep things simple normally, but it did not work this time. You must have seen the e-invite. I did not get the cards printed. I have a friend in Singapore. His name is V.K. Raja – he is the one who wrote that emergency arbitration award, which was dealt with by Rohinton. He sent me a text saying that, “*Congratulate Rohinton on my behalf for writing such a good book*” ... and, Justice Indu Malhotra sent me a text saying, “*Sorry Brother, I will not be there. Congratulations on the book written by Rohinton Nariman.*”

<Crowd chuckled with laughter>

My law researchers were pointing out to me initially, ‘Sir, there might be a confusion in this (e-invite)’, but I said alright, the invite says “*our Book*” and it (the e-invite) says my name in the foot of the invitation. But it didn't work. How I wish Rohinton writes a Book on Corporate Insolvency.

I could not have thought about anybody else to release this Book. Rohinton has been a friend [of mine] for thirty years at the Bar, as well as this side of the Bar – being a Judge. You just got a taste of his memory, extraordinary intelligence, clarity of thought and expression. I have been a recipient of all this for a long period of time. It is not only law that he is well-versed with ... he is excellent in religion, literature, history – not only his religions, [but] comparative religion

At the Bar, we [Justice Rohinton and Justice L.N. Rao] were the first in reaching the Court. Before 10 o'clock we were at the coffee shop. Today, as well, when I went to his house to pick him up – he said at 9.30, now let's go. So, I was reminding him that, ‘you always want to be early!’ Even when we were the judges – me, him and the present Chief Justice [Justice DY Chandrachud] were the earlier ones at the Lounge. At about 10 AM we were there, and then he [Justice Nariman] used to share his experiences, he used to share his knowledge – it always a pleasure hearing him. As he just said, making a law is only the starting point of trouble for the consumers of law – especially a complex law like this (IBC); Clever and intelligent lawyers will start interpreting it in different ways. So, interpretation of the provisions of the Act would become very important. And, Rohinton, fortunately for all of us in this country – he is the person on whose lap the law landed, to start with. He has referred to all those judgments, which I thought I will speak, but he has finished it off already! He gave a direction to this law and by

interpreting certain provisions, which were capable on being interpreted both ways, he took it upon himself to interpret the law.

There was a case of personal guarantee which came up before me, when I was sitting with Justice Ravindra Bhatt. There was a notification issued by the Government bringing into force the [concerned] provisions of the Act [IBC] where personal guarantees would also be liable. Then, I was telling the lawyers (arguing the case), ‘why don’t you have the High Court decide, so that we will have the judgment. Madhavi Diwan was appearing for the Union of India and she told us that Justice Nariman took up most of these insolvency matters, and moreover, they [litigants] needed interpretations of the statutes to be done at this [Supreme Court] level, so that there will be clarity in NCLT, NCLAT and other fora deciding the matters. Instead of leaving it to them, where there may be conflicting opinions coming out from various provisions of law. I was impressed and then, we withdrew all the cases from the High Courts and then we heard the matter and there was a judgment.

The law [IBC] itself is for the purpose of ease of doing business, resolution of insolvency and ultimately, good for the economy – which it has really helped the country. But, as he [Justice Nariman] was pointing out to Justice V. Ramasubramanian’s Introduction – as some of my friends who were opening the Book were impressed by the last paragraph [of the Introduction.] The maladies of the law need to be taken care of, and unless they are taken care of – the IBC would itself need a resolution plan, is what he [Justice Ramasubramanian] has said. It means that, though there was some direction by the Supreme Court by interpretation of some provisions, still there is lot to be done. I thank Justice Ramasubramanian for his Introduction.

I was speaking to Justice Bhushan – he also said that there are some modifications and alterations which are to be done to the law; certain issues which have to be resolved so far as the working of the law is concerned – but that is a continuous process. It is good that Justice Rohinton dealt with the subject to start with – where there is uniformity in interpretation of some provisions. Even we were grappling with certain issues – when matters were coming up before me and Justice Bhushan Gavai were sitting together for about a year, year and a half. We were shown judgments on the Supreme Court on limitation – where there is difference of opinion. These issues [on limitation] were also cropping up when Justice Rastogi, me and Hemant Gupta were sitting together. Ultimately, now in this Book we have dealt with all these judgments and have said that, atleast now there is no problem on limitation. There are certain aspects which have been dealt with in this Book – where we [Authors – Justice Rao and Avinash] have said that the Supreme Court has to now pronounce a judgment on certain difference of opinions.

### ***Why this Book?***

After my retirement I found that it was very difficult to adjust. July came and all my colleagues went to the Court. All lawyers were in Court. For about 30-35 years, I was in Court and suddenly I was asked to sit at home. I don’t like being idle. At that point of time, Avinash came to me. Avinash – joined my office when he was studying in Amity and as a law student, he came and said that ‘I want to intern with you’. But in a month or two, I found that the boy was very sharp. He was working very hard. And thereafter, after finishing his law he went to Oxford on a scholarship and came back and started practicing in Madras. He was assisting Mr. Arvindh Pandian, Former Additional Advocate General and Senior Advocate – who is present here

today. He practices mainly, not that he does exclusive Company Law work, at the NCLT & NCLAT.

So, he came up to me and said, why don't we write a Book. I said, 'I don't know whether I will have the time. As of now, I have the time.' Then he told me that I have already started writing this Book. Then I told him if you want this Book to go in my name, then I will have to contribute to this. So, I spent about three to four hours in the past Five-six months with him, virtually as he was in Chennai. We used to read everything and wherever there was doubt – making corrections. He used to tell me that there was difference of opinion on this point, he used to ask – 'What would be your view?', etc. It was a great learning for me also. Thanks, Avinash for getting me into writing this Book along with you. I am sure you will do very well in future, writing more Books. Right now, I don't know whether I will be able to spare more time.

As you all know most of the retired Judges get into arbitrations and they don't find time to do anything, especially, with lawyers who don't want to work during the daytime. They want to come and have arbitrations only in the evenings or on Saturdays and Sundays. Justice Rastogi, I am telling you, don't permit them to do this. Ask them to do full day work. Arbitration is a full-time work.

I went and met Justice Ashok Bhushan – both of us were sworn-in on the same day, but even before we became judges, I was fortunate in appearing before him at Allahabad as well as in Kerala – so that familiarity was there. He is a very good Judge – a thorough gentleman Judge. I never saw him raising his voice – even as a lawyer as well as a Judge sitting with him. When he accepted the appointment as the Chairperson of NCLAT, I told him that do you realize that you will have to work harder than you had worked as a Supreme Court Judge. Two years into the job and two more, but he is enjoying his work. I wish him well and thank you very much for being here and being with me in so far as this journey is concerned.

I thank all of you for being here. You have been an immense support to me. For all these years – I have known all of you for so many years – having worked with you as a lawyer as well as seeing you in Court.

This Book is not only for legal professionals. As I was going through it, I was actually looking at it conceptually. It is not dealt with section-wise, but it is dealt with step-wise and it also deals with issues. Whenever you want something, you can go to the Index and look at it; even a common man who has some litigation may look at it. It is not a story book – people cannot just buy it from the stands and read, but otherwise if at all anyone has litigation, he would be interested in knowing what his case is about and what is the law on that. So, it will be much easier for even a person who is not a legal professional to be acquainted with this Book and to be comfortable in reading this Book.

I was trying my best to reduce the number of pages in consultation with [Mr.] Ravi, but it was not possible because of the width of the subject and the law laid down by NCLT and NCLAT and the Supreme Court in the last six-seven years.

I wish that this Book reaches everybody and people would be enriched by reading this.

In the last, I would like to thank the publishers [Lexis Nexis] for pushing us. They wanted use to release the Book in December. I told him no way... I can't do it by December with so many

Chapters remaining to be written. Thanks for his patience and ultimately, bringing out the Book on time.

Thank You, very much!

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