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THE LATE MR. JUSTICE V. GOVINDARAJACHARI.

It is with very great sorrow that we have to record the death of Mr. Justice Govindarajachari in the early hours of Saturday last. Though he had been known to have been taken rather seriously ill sometime back, none of us ever dreamt that he would be snatched away from our midst so quickly and suddenly. It is really a tragedy that such a gifted Judge should so soon after his elevation to the Bench, and while yet so young, have been removed by the hand of Providence.

After a distinguished career in the Law College, Mr. Govindarajachari underwent his apprenticeship under Mr. Alladi Krishnaswami Aiyar and under the latter's fostering and encouraging training soon made himself fit to make his mark in the profession. He was a very industrious and zealous student of law from the very beginning and after being called to the Bar never spared himself in getting equipped with all the requirements necessary for soon attaining the top ranks in the profession. In fact this overwork began to tell on his health even very early. It was nothing surprising that gifted as he was with great intelligence he acquired a precise and accurate knowledge of law in all its branches and was always ready to handle any case of any magnitude with absolute confidence and competency. He had always a passionate love for the law for its own sake and knew by heart all the classic dicta of the eminent Judges in all the leading cases. He was thorough both in law and facts and his presentation of his cases in Court was always analytical, lucid and forcible. As an advocate, he was much respected by the Judges and lawyers alike. He was an advocate of unimpeachable character and the highest professional integrity. His easy and pleasant manners and ever-ready smile attracted round him a very wide circle of friends and admirers. Indeed, it is very doubtful whether there was any one at all who had anything but the good to say of him.

Though he held the office of the Judge of the High Court only for a short time he had by his judgments shown that he was a worthy occupant of that high office and could take his rightful place along with the former eminent and illustrious Judges for which Madras has been so justly famous. His judgments were always characterised by clarity of reasoning, remarkable analysis of the facts and clear exposition of the law on the relevant subject. He gave a patient and unruffled hearing to one and all alike and was never known to have uttered a harsh word or rebuke to any one. As at the Bar so on the Bench he had endeared himself to everyone and naturally in his death everyone feels, as it were, a personal loss.

In the death of Mr. Justice Govindarajachari, the Bench has lost one of its brightest ornaments, the Bar one of its staunch friends and well-wishers and the country a most worthy citizen and a fearless and upright Judge. May his soul rest in peace.

We offer our most heartfelt sympathy to the members of his family in their tragic bereavement.

REFERENCE IN THE HIGH COURT ON 4TH OCTOBER.

The Advocate General, Mr. K. Rajah Iyer, made a touching reference to the death of Mr. Justice Govindarajachari before their Lordships the Chief Justice and all the Judges of the High Court and in the course of it said :

"No words of mine can adequately express the poignant sense of grief which I, personally, and the members of the Bar, in general, feel at the tragic death of Mr. Justice Govindarajachari. The news of His Lordship's sudden and serious illness a few days back itself came as a rude shock to us, but we were told and reassured that by the Grace of Providence, he had miraculously recovered and was making steady progress towards improvement ; and therefore the news of his death last Saturday was one which was least expected. The same Providence, however in His wisdom, has chosen to take him away from us, leaving us infinitely poorer for his loss ; and all that is left to us is to assemble here today as we have done to give expression to the sorrow which overpowers us.

Our loss is truly an irreparable one. He had greatly endeared himself to us while he was in the Bar and in an even greater measure after he was elevated to the Bench. I can say without any exaggeration that there exists no individual, member of the Bar or otherwise, who did not like him, or who had one unkind word to say about him. Everybody, who had occasion to come into contact with him, was charmed by his winning manners, infinite courtesy and friendly word and smile, the one arresting feature about His Lordship being his sweet simplicity and utter lack of pomp. Nature's finest gentleman he was, every inch of him.

He was a great lawyer, a great advocate and a great Judge. It was little wonder that with his equipment and accomplishments, he was able to build up such an extensive practice within a few years, a practice which transcended linguistic limitations. As an advocate he was a master of clear thinking and lucid exposition and with his sound knowledge of law and fundamental legal principles he was able to rise to great heights and leave the imprint of his personality on the Judges before whom he appeared.

His career as a Judge has been unfortunately all too short. But I am uttering only the bare truth when I affirm that he was an ideal Judge from every point of view and judged by every standard. No point of law or fact could elude the grasp of his powerful brain ; the hearing which he gave in every case to both sides was perfect ; his judgments were characterised by depth of learning, nicety of language and appropriateness of idiom ; and without exception again the Bar had nothing but praise and admiration for the manner in which he conducted himself on the Bench and maintained the best traditions and dignity of the Madras High Court.

His Lordship had a brilliant scholastic career, winning medals and prizes with ease. He gained valuable experience as a tutor and lecturer for two years in the Vizianagaram College in 1918. He distinguished himself in his study of law coming out first in the F.L. and third in the Presidency in the B.L. examination. He underwent his apprenticeship under Mr. Alladi Krishnaswami Aiyar, whose absorbing passion for deep and sound knowledge of law in all its various aspects and whose untiring industry in the pursuit of such knowledge he strove successfully to imbibe and follow in later years. Ever since his enrolment in 1921 he took to his work with zeal and earnestness and very early began to make his mark in the profession by his untiring industry, keen insight, persuasive advocacy and scrupulous fairness, and reached the top ranks soon. His appointment as a Judge of this Court was received with universal satisfaction and we believed that for years and

years he would adorn the High Court Bench as one of its brightest ornaments. I shall be failing in doing justice to his memory if I do not refer to his varied and versatile tastes, accomplishments and activities in other fields as well. He was a passionate student of literature, both English and vernacular and an ardent admirer of art; and he never stinted his helping hand to rising artists. In his death, we have lost an ideal judge and good man, an eminent scholar, a useful citizen and a loving friend.

We can but offer our heartfelt sympathy to the bereaved members of his family and pray that the same Providence which has chosen to call him to Eternal Rest will also give them sufficient courage to bear the loss; and may they and we cherish his memory in love and prayer for the peace of his soul."

The Chief Justice associating himself with the sentiments expressed by the Advocate-General said: "Though we knew that Mr. Justice Govindarajachari was very ill from August 22, we were hoping that by the Grace of Providence, he would soon recover and be with us again. It was, therefore, that I received the news of his passing away with a shock. No one expected that he would be taken away from us at this very early age. Many of you present here both on the Bench and at the Bar have known the late Mr. Justice Govindarajachari very well. My acquaintance with him goes back to the days when he was in the Law College. As you have said, after a distinguished academic career, he was enrolled in 1921. In the early years of his professional career, he was associated with the great lawyer, Mr. Alladi Krishnaswami Aiyar. Very soon he acquired a status for himself and rapidly built up a first-rate and lucrative practice. When he was elevated to the Bench in 1946, he was one of the acknowledged leaders of the Bar. I have appeared against him on many occasions and so have many of my brothers and many of you. The greatness of a warrior is best assessed by his adversary and I am sure you will all agree with me when I say that Mr. Govindarajachari always gave a good fight and a clean fight. He was as fair in his presentation as he was thorough in his preparation of the cases. He had great gifts, gifts of clarity of thought and lucidity of expression, amiable manners and forcible advocacy. A juristic approach to every problem of every case was his special characteristic. As a Judge he was with us for about two years. In this brief period of time, he gained a reputation for judicial qualities of a very high order, patience, courtesy, sobriety, restraint and intellectual insight and impartiality.

Besides law, he had a variety of other interests, literary, social and cultural. As he and I shared many of the interests, we were thrown in together often in many institutions and movements, the latest of which was the preparation of an Encyclopædia in Telugu. In all these community matters, he was helpful, sincere and enthusiastic and at the same time very practical. Above all, he was a good man and a gentleman. I think you can give him the title given to Dharmaraja, "Ajata Satru." Our loss is indeed very great. It will be difficult to replace him for he combined in himself, the highest ability, spotless integrity and finest culture.

Mr. Advocate-General, please convey to the bereaved family the condolences of myself and my brothers. As a mark of respect to his memory and in token of our sorrow, the Courts will be closed to-day."

SUMMARY OF ENGLISH CASES.

Re LUCAS : SHEARD *v.* MELLOR, (1948) 2 All.E.R. 22 (C.A.).

Will—Bequest to charitable institution—Institution closed before testator's death—Cyprus.

The testatrix who died on 19th December, 1943, by her will dated 12th October, 1942, made a number of charitable bequests including a legacy of the sum of £500 to the "Crippled Children's Home, Lindley Moor Huddersfield" and a portion of the residuary estate to "The Crippled Children's Home" without repeating

the address, but clearly intending to refer to the same object. The lease of the premises at Lindley Moor expired on 6th April, 1939, and the premises were vacated, the home carried on there closed and no other premises for use as a home was acquired. On the application of the trustees of the charity a scheme was framed providing for the administration of the funds and the income to be applied towards sending poor crippled children to holiday or convalescent homes. On a construction of the will,

Held, the mere fact that the testatrix, when she made the will, was under the impression that the particular home was still being carried on in the premises at Lindley Moor is clearly no indication that she intended to benefit only and exclusively the particular home as distinct from the charity carrying it on.

The gifts ought to be construed as gifts to the trustees of the charity for the general purposes of the charity. The fact that the home had been actually closed before the date of the will and the testatrix's apparent ignorance of that fact cannot alter the meaning of the language which she has used. The gifts constitute valid and effectual charitable bequests and the trustees of the charity are entitled to such bequests by way of addition to the endowments of such charity.

READING v. REGEM, (1948) 2 All.E.R. 27 (K.B.D.).

Master and servant—Servant dishonestly making money by virtue of his employment—Sergeant of army in uniform escorting private lorry engaged in transporting some goods—Moneys received for—Right of master to.

R was a sergeant in the Royal Medical Corps stationed at the general hospital in Cairo, where he was in charge of medical stores. He had not had any opportunities in his life as a soldier, of making money, but in March 1944, there was found, standing to his credit at banks in Egypt, several thousands of pounds, and he had more thousands of pounds in notes in his flat. He had also acquired a motor car worth £1,500. The Special Investigation Branch of the army looked into the matter, and he was asked how he came by the moneys. He made a statement, from which it appeared that they were paid to him by *M* in these circumstances. A lorry used to arrive loaded with cases, the contents of which were unknown. Then *R* in full uniform boarded the lorry, and escorted it through Cairo, so that it was able to pass the civilian police without being inspected. When it arrived at the destination, it was unloaded, or the contents were transferred to another lorry. Then *R* saw *M* in a restaurant in Cairo. *M* handed him an envelope which he put in his pocket. On examining it when he arrived home he found that it contained £2,000. Similar amounts were paid for succeeding loads until eventually some £20,000 had gone into the pocket of *R*. The military authorities took possession of the money. *R* claimed the return of the moneys by a petition of right.

In the circumstances, *held*, it is a principle of law that, if a servant takes advantage of his service and violates his duty of honesty and good faith to make a profit for himself, in the sense that the assets of which he has control, the facilities which he enjoys, or the position which he occupies, are the real cause of his obtaining the money as distinct from merely affording the opportunity for getting it, that is to say, if they play the predominant part in his obtaining the money, then he is accountable for it to his master. It matters not that the master has not lost any profit nor suffered any damage, nor does it matter that the master could not have done the act himself. If the servant has unjustly enriched himself by virtue of his service, without his master's sanction, the law says that he ought not to be allowed to keep the money, but it shall be taken from him and given to his master. The use of the facilities provided by the Crown in the shape of the uniform and the use of his position in the army were the only reason why *R* was able to get the moneys and the Crown as master is entitled to the money.