

**Profile of Dr. Justice Vineet Kothari**



Dr. Justice Vineet Kothari, a former High Court Judge, **63 years**, is resident of Jodhpur, Rajasthan, India. Born on 2<sup>nd</sup> September, 1959, he hails from a reputed Jain Family of Jodhpur and is highly qualified person with qualifications of a **CA, CS, Ph.D. (Taxation), LL.M. LL.B. and B. Com (Hons.)** and presently designated as a **Senior Advocate** by Supreme Court of India since May, 2022 and practices law now as Senior Counsel and Arbitrator.

His main area of practice are Domestic Tax laws, International Taxation, Corporate and Insolvency laws, Property and Family Laws. His ADR activities encompass Commercial & Contractual disputes resolution through various Domestic & International Arbitration & Mediation Institutions. He is empaneled as Arbitrator with most of the High Court annexed Centres i.e. (1) Madras High Court Arbitration Centre (MHCAC), (2) Bombay High Court Arbitration Centre, (3) Delhi High Court Arbitration Centre, and (4) Indian Council of Arbitration (ICA).

Dr. Kothari is also on board of private Arbitration and Mediation Centres in India like Nani Palkhvala Arbitration Centre and he is already empaneled as Arbitrator in the International Arbitration Centres of **SIAC, Singapore**, Dubai International Arbitration Centre, Dubai, **DIAC** and Russian Arbitration Centre, **RAC** and empanelment is under process at Vietnam International Arbitration Centre, Vietnam, **VIAC** and Maldives International Arbitration Centre, **MIAC**. Justice Vineet Kothari is recently elected to **the Governing Body of Indian Council of Arbitration (ICA)** also.

He is on Board as **Senior Advisor to KPMG, India and MBG, Dubai**.

Justice Kothari currently presiding over 14 Arbitrations, the same have been referred through Section 11 petitions preferred by parties at different

High Courts in India. The references have been made through the Hon'ble concerned roaster Judges at the different High Courts in India. That out of the 14 Arbitrations presided over by Justice Kothari, in 4 Arbitrations the awards have been pronounced in the last 2 years, post-retirement.

Justice Kothari was **elevated to Bench on 13.6.2005** as a Judge of Rajasthan High Court. He served at Rajasthan High Court from 13.6.2005 to 17.4.2018. Then, he served at Karnataka High Court from 18.4.2016 to 22.11.2018. Afterwards, he also served at Madras High Court from 23.11.2018 to 3.1.2021 including for some period as Acting Chief Justice of Madras High Court for about 2 months. Towards the end of his career as a Judge, he also served at Gujarat High Court from 4.1.2021 to 1.9.2021 and **he retired as Acting Chief Justice of Gujarat High Court on 1<sup>st</sup> September, 2021**. He decided total number of approximately 50,000 contested Tax Appeals, Writ, Writ Appeals, Civil Appeals in his career as Judge over 16 years with almost NIL reversals from higher Courts.

Justice Kothari has **contributed papers for National Conferences and International Conferences on International Taxation** and other allied subjects in various countries at **Amsterdam, Helsinki, Luzern, Switzerland and Brisbane, Australia** on subjects like “ **Transfer Pricing and Use of Secret Comparables**” , “ **Social Networking by Judges**”, “ **Application of Foreign Judgements by Indian Courts** ” etc. and is the Member for last about 10 years and the Honorary Director on the Board of International Association of Tax Judges (**IATJ**) for last 5 years and is also a Member of **C.M.J.A., London**. His two Papers have been published by **Korea Legislative Research Institute (KLRI)** in their **Global Legal Issues** viz. “ **Constitutional Features & Indian Democracy**” ( 2012) and “**Applicability of Foreign Decisions and Interpretation of Tax Treaties in International Taxation**” (2017) Vol.7 KLRI Journal 149 )

Justice Kothari regularly addressed **several Webinars during Covid period** between 2020 to 2021 and thereafter continuing to do so on various subjects ranging from Taxation to variety of law subjects to cross sections of professionals including his address to Religious Institutions and School Children about Indian Legal system.

Justice Kothari served as **Executive Chairman of Tamil Nadu State Legal Services Authority, Executive Chairman of Gujarat State Legal Services Authority as also as the Chairman** of the Tamil Nadu Mediation and Conciliation Centre.

While he was in Gujarat as a Senior Judge, he also served as the **Chairman of the Gujarat Arbitration Centre & Mediation Centre.**

He completed his 40 Hrs. Mediation training approved by MCPC, a Committee constituted by the Supreme Court of India as a sitting Judge of Madras High Court with his 26 colleague Sitting Judges and decided several cases amicably between disputants through mediation process as a sitting Judge.

Significantly, his Article on “**Child Education & Poverty Alleviation in India**” giving suggestions for compulsory Military Training to youth of the country was acknowledged and appreciated by the then President of India, Dr. A.P.J. Abdul Kalam in 2006.

Justice Kothari also served as the **Chief Editor of Sales Tax Literature**, a National Level Journal, during the year 1986 till 1990. He was also Author of the **CTR Yearly Digest & STC Yearly Digest from 1979 till 1990.**

He also served as a part time Guest Faculty in the Faculty of Law, University of Jodhpur, for about six years from 1994 till 2000.

#### **Leading Cases decided by Justice Kothari**

- i. Winding up order under **Companies Act, 1956** of two companies of Vijay Mallya Group – **Kingfisher Airlines and United Breweries Group** in Karnataka High Court. (2018)
- ii. In **Admiralty jurisdiction**, leave of Company Court seized of the winding up proceedings against the company, was not required while trying original suits filed by creditor in Madras High Court in the original Admiralty jurisdiction and the said view of Justice Kothari was later on followed by the Bombay High Court. (2019)
- iii. In **International tax** in the case of **Softbrands**, (2017) the question of comparable adopted in making TP adjustments do not give rise to substantial question of law for Income Tax Appeals under Section 260A of the Income Tax Act, in Karnataka High Court.

- iv. The validity of certain provisions of **National Highways Authorities Act** upheld in Division Bench in Rajasthan High Court (2006).
- v. In Service & Employment law jurisprudence he held that the short term **contractual employment of teachers** under Hire and Fire policy for academic sessions was unfair practice and the same was quashed while he was Judge in Rajasthan High Court and the State was directed to hold regular selection of Teachers. (2010)
- vi. Under **Sales Tax or VAT law**, he held that the **replacement of motor parts under Warranty** as supplied to dealer by the manufacturer, was not taxable sales in the hands of the dealer. Supreme Court decision in Mohd. Ikram Hussain case (2008 (6) SCC 183) was distinguished by him as Judge of the Rajasthan High Court and on the basis thereof, the matter was referred by a latter Bench of Supreme Court, to the larger bench of the Supreme Court.
- vii. Under the **Urban Land Ceiling law**, almost all controversial points decided by the Division Bench of Gujarat High Court headed by Justice Kothari and the cases was finally heard through Video conferencing in COVID 19 period and large number of Appeals were decided in favor of the State Government. (2021)

### **Family Background**

Justice Kothari was born in a reputed Jain family of Chartered Accountants at Jodhpur, Rajasthan. His father was an Accountant in Education Department and mother was a Home-maker. One of his elder brothers, Shri B.M. Kothari was an eminent Chartered Accountant of Rajasthan and later on, served as an Accountant Member of the Income Tax Appellate Tribunal (ITAT) from 1989 till 2004.

Justice Kothari is married to Mrs. Meena Kothari since January, 1984 and who is actively involved in mediation and is also a Senior Trainer-cum-Mediator. His both sons, Mr. Vinay Kothari, 38 yrs. [B.B.A., LL.B. (Hons.)] from National Law University, Jodhpur and [LL.M.] from Kings College, London and Mr. Mehul Kothari, 29 yrs. [B.A., LL.B. (Hons.) from Jindal Global Law School] and LL.M. [EMLE, Israel, Austria and Netherlands] are practicing Advocates, who have a boutique Law Firm M/s Kothari & Associates, Rajasthan, India.

**Extra-Curricular Activities**

Justice Kothari is a sports person and plays Cricket, Badminton and Table Tennis.

Has vivid interest in soft music, both vocal and instrumental. He sings well and also plays various musical instruments like Keyboard, Flute, Harmonica, etc.

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