



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE

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CCJ REJECTS APPLICATION FOR SPECIAL LEAVE; JURISDICTION OF FULL COURT VS COURT OF APPEAL DEFINED

Port of Spain, Trinidad. In a judgment released today, the Caribbean Court of Justice (CCJ) rejected a special leave application to appeal a decision made by the Court of Appeal of Guyana in the matter of *Chandroutie Persaud and Rafudeen Nizamudin v Javen Jason Nizamudin [2020] CCJ 4 (AJ)*. The CCJ held that the Court of Appeal was correct in its decision that it had no jurisdiction (legal authority) to hear that matter.

Mr Javen Jason Nizamudin filed a so-called Fixed Date Application in the High Court of Guyana for the sale of a property and his share of the proceeds of the sale. According to a Transfer of Lease, Mr J. Nizamudin jointly owned this property with Ms Chandroutie Persaud, the current wife of his father, Mr Rafudeen Nizamudin.

Ms Persaud, however, claimed that she alone owned the property and that Mr J. Nizamudin's name was only placed on the Transfer of Lease as a trustee for his father. She explained that at the time, the latter was engaged in legal battles with his former wife, so it would have been unwise to place his name on the title. She maintained that Mr J. Nizamudin never contributed to the property in any way, but Mr J. Nizamudin disputed this fact, stating he assisted in the maintenance of the premises.

Mr Justice Navindra Singh in the High Court of Guyana granted the order, directing the property be sold and the proceeds be distributed equally between Mr J. Nizamudin and Ms Persaud. Ms Persaud and Mr. R. Nizamudin filed an appeal to the Court of Appeal of Guyana against the decision of Mr Justice Singh. Mr J. Nizamudin, however, argued that the matter in the High Court fell into the category of summary proceedings (not a full trial, mainly matters capable of being resolved quickly). Therefore, the appeal was to be heard by the Full Court, not the Court of Appeal. The Court of Appeal agreed with Mr J. Nizamudin

and struck out the appeal. Ms Persaud and Mr R. Nizamudin subsequently applied to the CCJ for special leave to appeal this decision.

At the CCJ, Counsel for Ms Persaud and Mr R. Nizamudin argued that the proceeding following the Fixed Date Application in the High Court could not have been a summary proceeding, since the matter required analysis of the merits and one could not obtain summary judgment using the Fixed Date Application. However, the CCJ using several means of legal interpretation, decided that the meaning of 'summary proceedings' included cases which could be resolved quickly after the filing of the matter, without the need for the full and normal processes in the court. The CCJ held that the action commenced by Mr J. Nizamudin in the High Court was relatively fast and simple and the Court of Appeal was correct in finding they were indeed summary proceedings. The Full Court was found to be the correct court for its appeal. The CCJ dismissed the special leave application and awarded costs to Mr J. Nizamudin.

The Court was comprised of Mr Justice Wit, Mme Justice Rajnauth-Lee and Mr Justice Jamadar and the judgment was delivered by Mr Justice Jamadar. The applicants were represented by Mr Sanjeev Datadin and Ms Jameela Ali SC and the respondent was represented by Mr Mohabir Anil Nandlal and Ms Anuradha Deodasingh.

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

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