



## CARIBBEAN COURT OF JUSTICE

134 HENRY STREET

PORT OF SPAIN

REPUBLIC OF TRINIDAD AND TOBAGO

Telephone: (868) 623-2CCJ Fax: (868) 624-4710

Website: [www.ccj.org](http://www.ccj.org)

### MEDIA RELEASE

(For immediate release)

No. 07 :2022

23 February 2022

### CCJ ALLOWS PRASHAD'S APPEAL: RULES THAT PERSAUD SIBLINGS HAD NO LEGAL STANDING AND COURT OF APPEAL HAD NO JURISDICTION

**Port of Spain, Trinidad.** In a judgment released by, the Caribbean Court of Justice (CCJ), the Court allowed the Guyanese appeal of Sahadeo Prashad in the matter of *Sahadeo Prashad v Basmattie Persaud, Bhagmattie Persaud and Coblall Persaud* [2022] CCJ 5 (AJ) GY. The CCJ heard the appeal on 14 October 2021.

Sahadeo Prashad brought an action for possession of land against his siblings, the Persauds. He claimed that he had been the legal owner of the land since 1985. The Persauds in response argued that Prashad obtained the transport (title) by fraud. They pleaded in the alternative that their parents entered into an agreement with Prashad to acquire the land. According to this alleged agreement, Prashad would apply for the mortgage and have transport to the land passed to him. All mortgage payments would be funded by his parents and when they were complete, then Prashad would transfer the land to his parents. The Persauds contended that this alleged agreement amounted to a “constructive trust”.

At the High Court, Prashad objected to the Persauds’ legal standing (authority) to counterclaim on the basis that they did not have any rights in relation to the land. That prompted an application by the Persauds to join the estate of their father, Harold Prashad, but the High Court Judge made an order refusing that application (“the interlocutory order”). The High Court ultimately ruled in favour of Prashad and the Persauds appealed to the Court of Appeal. Their appeal was against the judgment of the High Court and the interlocutory order. The court found that the appeal against the interlocutory order ought to have been made to the Full Court, but nevertheless, entertained it. The court also found that there was a constructive trust in existence. At the end of the proceedings, the court made an order to join the estate of the father.

The CCJ, in a judgment authored by Justice Barrow, found that the Persauds had no legal standing because they appeared before the courts in their personal capacities. The proper parties to assert a right to the land would have been the estates of the deceased parents. Further, the Court found that, in the first place, the Court of Appeal had no jurisdiction (authority) to hear the appeal against the interlocutory order. That appeal could have only been entertained by the Full Court. In relation to the Court of Appeal’s order to join the estate of the father, the Court stated that this order served

no purpose as it was made after the High Court proceedings ended and after the appeal had been heard.

In a concurring judgment, Justices Wit, Rajnauth-Lee and Burgess noted that in Guyana, there can only be full and absolute ownership of immovable property. As decided in earlier cases, there cannot be duality of ownership and, therefore, there is no division of a legal interest and an equitable interest in land. As such, a constructive trust under the English system of law, which recognises two types of owners; a legal owner and a beneficial owner, is problematic with respect to Guyana's law on immovable property.

The Court allowed the appeal and set aside the orders of the Court of Appeal.

The Court was presided over by the Honourable Mr Justice Wit, sitting with the Honourable Justices Rajnauth-Lee, Barrow, Burgess, and Jamadar. The Appellant was represented by Mr Robin Stoby SC, Mr Mohamed Khan and Mr Kashir Khan and the Respondent by Mrs Rinee Kissoon and Mr Satyesh Kissoon.

The full judgment of the Court is available on the Court's website at [www.ccj.org](http://www.ccj.org).

-end-

---

#### 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.

For more information please contact:  
The Public Education & Protocol Unit  
Tel: (868) 623-2225 exts. 2252, 2260  
Email: [pecu@ccj.org](mailto:pecu@ccj.org)