



CARIBBEAN COURT OF JUSTICE

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CCJ SETS ASIDE COURT OF APPEAL DECISION AND REMITS MATTER FOR FULLER CONSIDERATION IN PROCEDURAL APPEAL

Port of Spain, Trinidad and Tobago. On Thursday, 26 February 2026, the Caribbean Court of Justice (CCJ), in its Appellate Jurisdiction, delivered its judgment in the appeal *GYCV 2025/001 Satyanand Persaud and Taij Bahadur v Dhavanie Persaud (in her personal capacity and as the administrator of the Estate of Shamsundar Persaud)*. This matter concerned whether the Court of Appeal of Guyana was correct to strike out a motion for permission to appeal on the ground that it was filed out of time. By a majority, the CCJ allowed the appeal, set aside the order of the Court of Appeal, and remitted the matter to the Court of Appeal for fuller consideration.

The appellants, Mr. Satyanand Persaud and Mr. Taij Bahadur, are the uncles of the first respondent, Ms. Dhavanie Persaud, who appears both in her personal capacity and as the representative of her late father's estate. Although the underlying dispute involves an allegation that the estate owes Mr. Satyanand Persaud a debt of USD 400,000, the CCJ's consideration was strictly limited to reviewing the Court of Appeal's decision of 7 October 2024, refusing permission to appeal from the Full Court. The Court of Appeal had struck out the application as being filed approximately one month late. Despite receiving twice from the respondents advanced written notice of the lateness of the application for leave to appeal, the appellants did not file an application for an extension of time to seek leave to appeal. At the hearing before the Court of Appeal, the appellants registered a desire to seek an extension of time. However, the Court of Appeal did not entertain the possibility of an application for an extension of time during the hearing.

As the Court of Appeal delivered no written reasons for its decision, the CCJ examined the transcript of the proceedings before that court to identify the basis of its decision. The transcript showed that the Court of Appeal took into account the 14-day time limit to seek leave to appeal under Order 2, rule 2(1) of the Court of Appeal Rules, the lateness of the motion for leave to appeal, and counsel's reluctance to withdraw the motion. The transcript did not disclose the Court of

Appeal’s consideration of its discretionary power under Order 1, rule 8 of its Rules to regularise late filings, if the interests of justice so require.

Majority Reasoning

Justice Ononaiwu delivered the lead opinion of the majority. Justices Jamadar and Eboe-Osuji also delivered concurring opinions.

The majority emphasised the responsibility of the appellants, as the parties in default, to make a proper application for an extension of time. The appellants having failed to do so, the Court of Appeal was under no duty to recognise that an extension of time was required in the interests of justice.

However, the majority considered that the Court of Appeal retained its jurisdiction under Order 1, rule 8 despite the appellants’ failure to file an application for an extension of time. In circumstances where counsel for the appellants had clearly communicated a desire at the hearing to seek an extension of time, the Court of Appeal had a duty to consider the possibility of exercising its curative power. The CCJ held that the Court of Appeal made an error of law by limiting its consideration to the appellants’ noncompliance with the timeline for filing the application for permission to appeal without considering whether it was possible to remedy the noncompliance in the circumstances.

The majority also affirmed that, despite suggestions to the contrary in cases previously decided by the CCJ, this Court has jurisdiction to hear a late application for [special leave](#) to appeal when no application for an extension of time has been filed. They emphasised that procedural noncompliance may be curable where justice requires.

In his concurring opinion, Justice Eboe-Osuji underscored that procedural rules should serve justice rather than impede it, and that late filings can generally be cured—typically through costs—unless actual prejudice arises. Justice Jamadar, in a separate concurrence, outlined the specific areas in which he agreed with the reasons of Justices Ononaiwu and Eboe-Osuji.

Dissent

Justice Anderson, CCJ President, dissented. He found no sufficient basis for remitting the matter, indicating that an avoidable referral could unnecessarily prolong the litigation. He stressed that the discretionary power in Order 1, rule 8 is to be used sparingly and only where a litigant provides strong and cogent reasons justifying non-compliance with the relevant procedural rules. It was for the applicant, not the court, to raise and support the issue of a possible miscarriage of justice.

President Anderson also endorsed the Court’s previous decisions that, absent a risk of injustice, the Court has no jurisdiction to overlook the late filing of an application for leave or special leave. He rejected the suggestion that there is a contradiction between holding that the Court lacks jurisdiction to entertain a late application for special leave with the Court’s finding that failure to entertain a late application would not give rise to a risk of miscarriage of justice.

Given that the CCJ did not grant the appellants permission to appeal to the Court of Appeal, as was requested, the CCJ ordered that the parties bear their own costs of this appeal.

The CCJ panel comprised President Anderson and Justices Rajnauth-Lee, Jamadar, Ononaiwu, and Eboe-Osuji. The appellants were represented by Ms Jamela Ali, SC, Mr Sanjeev Datadin, and Ms Mohanie Anganoo. The respondents were represented by Mr Timothy Jonas, SC and Ms. Kristal Abrams.

The CCJ's full decision is available via www.ccj.org.

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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 Winston Anderson. 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, five states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica, Guyana, and Saint Lucia. 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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