

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

*In the matter of an application for orders
in the nature of a writ of Certiorari and
mandamus under and in terms of the
provisions of Article 140 of the
Constitution.*

V. Upul Nishantha
Secretary of the Sisila Farmers
Organization
No. 463,
Maduluwawa North
Maduluwawa.

PETITIONER

**Court of Appeal Case No:
CA/WRIT/379/17**

Vs.

1. Prof. Rohan Fernando
Director-General
Geological Survey and Mines Bureau,
No. 569,
Epitamulla Road,
Pitakotte.
2. Central Environmental Authority,
No. 104,
Denzil Kobbekduwa Mawatha,
Battaramulla.
3. Prof. Lal Mervin Dharmasiri,
Chairman,
Central Environmental Authority,
No. 104,

Denzil Kobbekduwa Mawatha,
Battaramulla.

4. Mr. A. M. S Weerasinghe,
Commissioner General of Agrarian
Development,
Department of Agrarian Development,
No. 42, P.O. Box. 537
Sir Marcus Fernando Mawatha,
Colombo.

4A. Mrs. Swarna Kusumaseeli
Director Enforcement,
Urban Development Authority
6th & 7th Floors,
Sethsiripaya,
Battaramulla.

5. Mr. Sunil Kannangara,
District Secretary,
District Secretariat,
Thimbirigasyaya.

6. P. Hemachandra
Neelawalanhalawatta.
Maduluwawa,
Padukka.

7. Lakshan Agrigate (Pvt) Ltd.
No. 608/A,
10th Mile Post,
Athurugiriya Road,
Malabe.

8. K. A. C. Wijesinghe,
No 111/G/B,
Kahanthota Road,
Malabe.

9. W. Ranasinghe,
No. 204/B,
Dampe,
Meegoda.
10. B. D. P. Karunaratne,
Uchitha,
Thalagala,
Kiriwaththuduwa.
11. M. Amarawewa,
No. 289/19
Kulasiri Kumarage Mawatha,
Katuwana, Homagama.
12. R. Jinolis,
No. 261,
Dampe,
Meegoda.
13. G. Mallawarachchi,
No. 605,
10th Mile Post
Athurugiriya,
Malabe.
14. Hon. Attorney General,
Attorney General's Department,
Hulfsdrop Street,
Colombo 12.

RESPONDENTS

Before: C.P Kirtisinghe, J
Mayadunne Corea, J

Counsel: Ravindranath Dabare with S. Ponnapperuma and H. Imalka for the Petitioner

Ganga Wakishtarachchi DSG for 1st, 2nd, 2A, 4, 4A and 5th Respondents
Shayamal A. Kollure with A. P. Jayaweera and P. S. Amarasinghe for 9th
10th and 12th Respondents
Asela Serasinghe for 11th Respondent
Sapumal Bandara with S Jayawardena for 6th and 13th Respondent

Argued on: 01.04.2022

Written Submissions: Tendered by 9th, 10th, and 12th Respondents on 31.05.2019
Tendered by 6th – 13th Respondents on 21.02.2019
Tendered by 1A, 2, 2A, 4, 4A and 5th Respondents on 01.03.2019
Tendered by 11th Respondent on 20.02.2019
Tendered by the Petitioner 11.01.2019

Decided on: 31.05.2022

Mayadunne Corea J

The facts of the case are briefly as follows; the Petitioner is a resident of Maduluwawa in the Dampe Grama Niladhari Division. The Petitioner alleges that he is the secretary of the ‘Sisila Farmers Organization’ with a membership of 60 members who are engaged in agricultural activities on lands spanning over 68 acres. The Petitioner states that he has come to this Court on behalf of the membership of the said organization. The Petitioner further states that he instituted this action in the nature of a public interest litigation to address the grievances of the public.

The Petitioner states that 6th – 13th Respondents are mining license holders and/or mining operators who are engaged in mining operations, some of which are being carried out without a valid license obtained from the relevant authorities and some operations are being carried out violating the conditions of the license. The Petitioner states that large-scale mining operations are being carried out in and around the vicinity of the land known as “Goolshaneally Watte” alias “Neelawalangala Watte” in the Dampe village of Maduluwawa in the Divisional Secretariat Division of ‘Padukka’ of Colombo District.

The Petitioner states that the mining activities of the Respondents have damaged and caused irreparable damage to the environment and severely impacted the daily lives and the livelihood of the villagers who are engaged in agricultural activities in the area. Petitioner further states that some of the mining operators are also engaged in illegal sand mining operations in

“Neelawalangala Watte” which has contaminated water sources in the area and affected agricultural activities as well as rendered it unfit for human consumption. Petitioner also states that mining operations have severely affected the ‘Puseliyoa’ which carries water to the ‘Morakottanuawawela’ which was an area used for paddy cultivation for decades.

The Petitioner filed this writ application and prays for the following reliefs:

1. Grant and issue an order in the nature of a writ of certiorari directing the 1-5th Respondents to quash/annul, cancel/suspend the approvals so far granted by them for carrying out the mining operations in the “Goolshaneally Watte” alias “Neelawalangala Watte” and in the area of the close vicinity.
2. Grant and issue an order in the nature of mandamus directing the 1st Respondent to act in compliance with sections 10,16,17,22,26, 23A,23B,23C,23D,23N, 23AA,23BB,23CC,24A,24C,24D of the National Environment Act No.47 1980 as amended, with regard to the mining operations described in the petition.
3. Grant and issue an order in the nature of mandamus directing the 3rd Respondent to act in compliance with the sections 32, 33, 34, 74, 75, 76, 77, 79, 80, 96 of the Agrarian Development Act No. 46 of 2000 as amended with regard to the mining operations and its effects,
4. Grant and issue an order in the nature of mandamus directing the 4th and 4A Respondents to act in compliance with under and in terms of sections 8 (cc), 8(f), 8(k), 8(p), 8(q), 8(r), 8(s), 8J, 8K, 28 AND 28 A of the Urban Development Authority Law No. 41 of 1978 as amended.

Petitioner’s complaint to Court

- The Petitioner’s main complaints, are namely that the 6th -13th Respondents are carrying on illegal mining operations,
- Even if they have valid approval, they are violating the conditions of the approval,
- 1st – 4th Respondents have failed to discharge, exercise, and perform the duties vested in them by way of statute, namely to curb the violations,
- Petitioner states that 6th – 13th Respondents are engaged in mining operations violating existing laws, causing grave and irreparable loss and harm to the environment and to citizens residing in its vicinity,
- Permit without Central Environmental Authority approval is a procedural irregularity.

Thus, this application for writs of certiorari and mandamus.

The Respondents in their objections have raised several preliminary objections. In summary, the Respondents are united in the following objections.

- The Petitioner is in violation of the Court of Appeal Rules,
- The Petitioner has no locus standi to file this application,
- The necessary parties are not before Court,
- In any event the Petitioner has come to Court after an undue delay and the Petitioner is guilty of laches,
- The prayer is vague thus no relief can be granted and the application is misconceived in law,
- The Petitioner is guilty of mispresenting and suppressing vital facts to the Court thus has failed to come with clean hands.

This Court will consider the said objections.

At the commencement of arguments, the parties informed Court that the 10th Respondent is no longer carrying out mining operations and therefore the mining license of the said Respondent is no longer active. Thus, the Petitioner is not pursuing his case against the 10th Respondent.

As pleaded, when the Petitioner invoked the jurisdiction of this Court, the Petitioner's main grievance was that 6th to 13th Respondents are carrying out illegal mining operations (para10) and are damaging the environment and causing a nuisance to the public including the Petitioner. However, in the same paragraph, the Petitioner submits that the said Respondents are holders of mining licenses. Thus, it appears that the Petitioner himself is in doubt as to whether his allegation against the Respondents on illegal mining can be maintained. The Respondents have correctly submitted that when a person is holding a valid license, he cannot be considered as a person who is engaged in illegal mining. It is also pertinent to note that the Petitioner in his petition, has failed to identify the Respondents who are allegedly conducting illegal mining. Without identifying, the Petitioner contends that some of the operators are carrying out illegal sand mining. All the Respondents denied the allegation and went further to state that they were only operating quarries.

Illegal mining operations

The Petitioner's main contention is that 6th to 13th Respondents are conducting illegal mining operations. To answer this question, the Court will consider whether the said Respondents have legally valid permits. 6th to 13th Respondents other than the 10th Respondent are in possession of valid mining licenses issued by the Geological Surveys & Mines Bureau. The said licenses were submitted by the Counsel as,

- 6R1 valid from 2017.10.03 to 2018.10.02
- 7R1 valid from 2017.11.10 to 2017.12.19
- 8R1 valid from 2017.01.31 to 2017.03.01
- 9R1 valid from 2018.01.08 to 2019.01.07

- 11R1 valid from 2017.09.04 to 2017.12.03
- 12R1 valid from 2017.12.19 to 2018.12.18
- 13R1 valid from 2017.11.14 to 2018.11.13.

The Respondents answering this allegation contended that, the 6th to 13th Respondents are valid license holders of mainly the 1st Respondent, the Geological Survey and Mines Bureau and have obtained all the approvals necessary from the relevant stakeholders to function.

As per the material submitted to this Court, and as per the submissions of the parties, we find that the 6th to 13th Respondents have conducted mining operations with a valid permit. Thus, the Petitioner's contention of Respondents carrying out illegal mining operations fails.

This Court will now examine the Petitioner's second allegation that the Respondents are in breach of the conditions of the permit.

To substantiate this allegation, the Petitioner relies on a newspaper article (P4) and several photographs (P5a to P5c) which shows soil being removed from an undisclosed location. The 6th, 7th, 9th, 11th, 12th and 13th Respondents while denying these photographs, contended that they were not engaged in gravel or soil mining. The 8th Respondent who had a permit for gravel excavation denied that the photographs were from his site. We find the Petitioner too does not make a direct allegation nor does he attribute the said photographs to the sites of 6th to 13th Respondents. The next two documents, the Petitioner relied on are P6, and P7 which also does not reflect that the said documents are pertaining to the mining sites of the said Respondents.

However, as per P8, it is clear that there had been several issues pertaining to the sites where the quarries are situated. Accordingly, the Geological Surveys and Mines Bureau had called for a meeting with the stakeholders which includes the 6th to 13th Respondents. The Petitioner contended that the said meeting was to discuss the violations of conditions in the permit by mining operators including the 6th to 13th Respondents. This was vehemently denied by the said Respondents.

The said Respondent's contention on the said meeting was that the meeting was not pertaining to any issues regarding them, but involved other mining operators who are not a party to this action and pertaining to the transport of metal from the quarries. None of the parties have submitted the minutes of the meeting or the recommendations and conclusions of the said meeting to this Court. Thus, the reason the meeting was called, is in dispute.

The Petitioner also brought to our attention documents P10, P11(a-e), P12, P14, and P15 to demonstrate the illegal mining operations that are carried out. However, we observe that P10 which is a police complaint has no relevance to the 6th to 13th Respondents. It is observed that the documents P11(a) to 11(e), P12, P14, and P15 too have no relevance to the 6th to 13th Respondents. The document P13 is a report on a site where gravel is extracted as stated earlier in this Judgment it is common ground that 6th to 13th Respondents except for the 8th Respondent is

not engaged in gravel excavation. There is no reference nor did the Petitioner allege that P13 refers to the site occupied by the 8th Respondent. Hence, we find that the Petitioner has failed to establish with the material submitted to this Court that the 6th to 13th Respondents have violated any conditions of their permit. The Petitioner has failed to submit to the Court any complaints he has made against the permit holder Respondents to demonstrate that they are violating the permit conditions or that they are carrying out illegal mining. It is also pertinent to note that even at the argument stage, the Petitioner failed to demonstrate what specific provisions of the permits are violated and the specific Respondents who are violating the same.

Environmental License

The Petitioner's next contention was that the Respondents were acting without a proper environmental license.

1st to 5th Respondents with their objections, tendered to this Court, the approvals granted to the said 6th to 13th Respondents and have demonstrated that they had issued the industrial mining license only after considering the approvals of the other relevant state institutions. The Urban Development Authority had issued its approval subject to the mining being done in compliance with the conditions imposed in the environmental permit and subject to its own conditions. Thus, it was contended that without the environmental permit, Urban Development Authority approval would not have been granted. Further, the mining had to be carried out under the supervision of an authorized officer from the Environmental Authority (6R1-6R5). As per the submissions made and the documents submitted, it is demonstrated that all the other Respondents too had obtained the necessary approvals including the environmental permit. It is also pertinent to state that the Petitioner has failed to demonstrate that he had complained specifically against the 6th to 13th Respondents violating the conditions of the license or that they were engaged in illegal sand mining or mining.

This Court also observes that 6th to 13th Respondents had been carrying out these mining operations with the permits issued by the Geological Survey and Mines Bureau, and it was submitted that the Respondents have the approval of the Central Environmental Authority (CEA), Ministry of Megapolis and Western Development, Department of Archeology, etc. The Respondents further submitted that the said mining was done under the inspection of a technical officer registered with the environmental authority. It is pertinent to note that the 6th, 9th, 10th, 11th, 12th, and 13th Respondents have submitted their respective environmental licenses to Court.

Now we will consider the objections raised by the Respondents.

Non-compliance with Court of Appeal Rules.

The Respondents raised an objection on the grounds that the Petitioner has failed to comply with the Court of Appeal Rules. It was the contention of 1st to 5th, 6th, 9th, 10th, and 13th Respondents that

the Petitioner has failed to comply with Rule 3(1) of the Court of Appeal rules. The said rule states as follows,

Rule 3(1)(a) “Every application made to the Court of Appeal for the exercise of the powers vested in the Court of Appeal by Articles 140 and 141 of the Constitution shall be by way of petition, together with an affidavit in support of the averments therein, and shall be accompanied by the originals of documents material to such application (or duly certified copies thereof) in the form of exhibits. Where a petitioner is unable to tender any such document, he shall state the reason for such inability and seek the leave of the Court to furnish such document later. Where a petitioner fails to comply with the provisions of this rule, the Court may *ex mero motu* or at the instance of any party dismiss such application.”

The Respondents contended that the Petitioner has failed to submit certified copies of the documents and has failed to obtain the permission of this Court to submit the same at a later stage. It was also contended that the document marked P4, a newspaper article does not even display the name of the newspaper.

The second contention of the Respondents was that the Petitioner has failed to comply with Rule 3(2) of the Court of Appeal rules. The said rule states as follows,

“The petition and affidavit, except in the case of an application for the exercise of the powers conferred by Article 141 of the Constitution shall contain an averment that the jurisdiction of the Court of Appeal has not previously been invoked in respect of the same matter. If such jurisdiction has previously been invoked the petitioner shall contain an averment disclosing relevant particulars of the previous application. Where any such averment as aforesaid is found to be false or incorrect the application may be dismissed.”

The Petitioner has failed to answer these objections. The Court of Appeal Rules are there to be observed. Our Courts have taken a strict view on compliance with the rules. In **Woodman Exports (Pvt) Ltd Vs Commissioner General Labour and others 2010 (BLR) 238** the Supreme Court held that *“The non-compliance with a mandatory Rule by a party could lead to serious erosion of well-established Court procedures maintained by our Courts throughout several decades and therefore the failure to comply with Rule 8(3) of the Supreme Court Rules would necessarily be fatal.”*

In the case of **Caderamanpulle and Others Vs Caderamanpulle and Others (2005) 1 SLR 398**, Amaratunge J cited the case of **Perera v Perera** where Udalgama J observed, *“This Court on numerous occasions held that in applications for leave to appeal, compliance with Rule 3(1) of the Supreme Court Rules 1990 pertaining to appellate procedure is mandatory.”* (page 31) Having made the above observation, this Court proceeded to dismiss the application with the following words, *“I am compelled to hold that non-compliance with the Supreme Court Rules is fatal to the application and proceed to sustain the preliminary objection raised by the defendant-petitioner-respondent and dismiss this application with costs.”*

In the case of **Attorney General v. Wilson Silva (1992) 1 SLR 48** Justice Grero stated, “*The petitioner has not satisfied this Court with a reasonable explanation regarding the impossibility of obtaining such copies in order to submit to this Court along with this application. At least no attempt has been made by him to tender them to this Court even subsequently. This Court is of the view that the said documents are very essential and they must be before this Court when this Court goes into the merits of the application. Non-compliance of the requirement regarding the tendering of such documents has not been satisfactorily explained by the petitioner and therefore, this Court is of the view that there is a violation of the provisions of Rule 46, which is fatal to this application.*”

The Petitioner has not only failed to answer this objection but has also failed to give an explanation for the non-compliance with the Court of Appeal rules.

Necessary parties are not before Court

The learned Counsel for 6th, 13th, 9th, and 10th Respondents contended that there are several other mining operators who are carrying out mining operations in the Goolsheneally Watte also known as Neelawangala watte. This is amply established by the documents submitted by the Petitioner himself, especially the copies of the records of the Court cases against some of these operators. It was the contention of the Counsel that this is relevant, especially in view of the way the reliefs are prayed. The Petitioner is seeking a writ of certiorari to quash/annul, cancel/suspend the approvals granted for carrying mining in the above-stated area. Thus, it was argued that the orders sought would affect parties who are not before Court but are legally carrying out mining operations in the area.

It was also argued that the mining license issued, should be on a recommendation from the area Grama Sevaka, The Divisional Secretary, The Pradeshiya Sabha, Department of Archeology, and especially the Department of Geological Surveys and Mines Bureau who is the issuing authority of the license and who has the obligation to supervise that the conditions of the license are observed. None of them have been made parties to this action. It was contended that the Petitioner in paragraph 10 of his petition had reserved the right to amend the parties who are illegally engaged in mining and add necessary parties upon the receipt of additional information. However, the Petitioner has failed to make any application to such effect and has not amended the petition till the arguments were concluded. This objection too was not answered by the Petitioner. The Petitioner is seeking a writ of mandamus compelling the 1st Respondent to act under the provisions of the Mines and the Minerals Act but as correctly pointed out by the 1st to 5th Respondents Counsel, the monitoring and supervisory duties are carried out under Act No 33 of 1992 by the Geological Surveys and Mines Bureau and its officers. We find the Petitioner has failed to make the said Geological Surveys and Mines Bureau a party to this application.

In Raway Publishers Vs. Wijedasa Rajapakse and Others [2003 3 SLR 213] Justice Asoka De Silva President of the Court of Appeal (as he was then) after considering the law relating to

necessary parties, held as follows, “In the context of writ applications as a necessary party is one without whom no order can be effectively made. A proper party is one in whose absence an effective order can be made but whose presence is necessary to a complete and final decision on the question involved in the proceedings. If they are not made parties then the petition can be dismissed in *limine*. It has also been held that persons vitally affected by the writ petition are all necessary parties. If their number is very large, some of them could be made respondents in a representative capacity. In view of the above judgment, the Respondent’s objection succeeds. Thus, we hold the petitioner has failed to make all the parties that are necessary and who will be affected by the orders of this Court.

Petitioner’s prayer is vague thus no relief can be granted and the application is misconceived in law.

The Petitioner’s first relief sought is for a writ of certiorari. The said prayer prays as follows; *Grant and issue an order in the nature of a writ of certiorari directing the 1-5th Respondents to quash/annul, cancel/suspend the approvals so far granted by them for carrying out the mining operations in the “Goolshaneally Watte” alias “Neelawalangala Watte” and in the area of the close vicinity.*

When this Court asked on what grounds the Petitioner is seeking this relief, the Petitioner was unable to give a direct answer. Further, this Court observes that the prayer seeks to quash all the approvals so far given, it does not give a time period which means that it is a blanket application to quash all the permits issued, irrespective of a time limit, and it does not disclose to whom the permits have been issued. This Court is kept in oblivion as to whether the permits have been issued only to 6th to 13th Respondents in this case or whether any other mining operators are involved. If so, issuing a writ of certiorari as pleaded by the Petitioner will result in quashing the permits issued to parties who are not before this Court and who are not a party to this case, and who have no allegations against them.

Furthermore, the relief sought has to fail as the Petitioner is seeking to quash approvals given, not only pertaining to Goolshaneally watte alias Neelawalangala watte but even to areas in close vicinity. The Petitioner is seeking this relief without properly identifying the areas that are in close vicinity and without disclosing up to what extent this close vicinity expands.

In his submissions, the Petitioner offered another vague answer to this objection and submitted that the area where the mining is carried out is depicted in a Google map marked P3 but stopped short of identifying a clear location. This Court also observes that the Petitioner is not seeking a writ of certiorari based on the said Google map but is seeking to cover an undisclosed area by using the word “vicinity”. It is well established that a Petitioner who seeks relief in a judicial review application cannot succeed if his prayer is vague and also, he cannot couch all imaginable reliefs in the prayer. The Petitioner should know what his grievance is and be specific as to the relief he is seeking.

In **Tilwin Silva v Ranil Wickremasinghe and Other (2007) 2 SLR 15** it was held that, *“The Petitioner’s prayer for a writ of prohibition not to sign any similar agreement is vague wide, and doubtful and such relief cannot be granted.”*

In his application for a writ of mandamus, the Petitioner has sought an order to compel the Respondents to act pursuant to several sections of the respective acts. However, the Petitioner has failed to address this Court as to what specific provisions of the Act have not been complied with and/or whether the Respondents have refused to discharge the statutory duties cast on them.

As held in the above case, when a Petitioner seeks relief under judicial review, he should be specific and should know what relief he is seeking and against whom or against what illegal acts the relief is prayed. Under the circumstances, we agree that the prayer is vague and the objection succeeds.

Misrepresenting and suppressing vital facts to Court, thus has failed to come with clean hands

The Petitioner has come to Court on the basis that there is environmental destruction caused by illegal mining. His main allegation is against the 6th to 13th Respondents who are alleged to be causing the destruction by their illegal acts. To demonstrate the violations of the conditions of the permit, the Petitioner has attached the documents P4 and P5a-c. The Petitioner also submitted in paragraph 9 the copies of the mining license given to 6th to 13th Respondents and in the subsequent paragraph has stated that the area residents had made several complaints to the police which resulted in a prosecution. To demonstrate this point, the Petitioner has tendered to Court the documents marked as P10 and P11a-e, P12, P14, and P15.

As stated elsewhere in this Judgment, this Court observes that the said documents are not pertaining to the 6th to 13th Respondents. The way in which the above-mentioned documents were pleaded was misleading to this Court and the failure of the Petitioner to disclose that the above documents were not pertaining to the 6th – 13th Respondents amounts to a misrepresentation of facts. Thus the Respondents’ contention that the Petitioner by misrepresentation has distorted the actual situation to gain an undue advantage at their cost, has merit.

In **Namunukula Plantations Limited Vs Minister of Lands and others (2012) 1 SLR pg 376** it was inter alia held that *“It is settled law that a person approaches the Court for grant of discretionary relief, to which category and application for a writ of certiorari would undoubtedly belong, has to come with clean hands, and should candidly disclose all the material facts which have any bearing on the adjudication of the issues raised in the case. In other words, he owes a duty of utmost good faith (uberimafides) to the court to make a full and complete disclosure of all material facts and refrain from concealing or suppressing any material facts within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence.”*

Thus, the objections of the Respondents succeed.

This brings us to make an observation pertaining to the second relief prayed namely a writ of mandamus. The Petitioner's documents P11a-c and P12, P14 demonstrate that in fact, the Central Environmental Authority and the Geological Survey and Mines Bureau have taken action against the illegal mine operators whenever it had been brought to their notice. The documents clearly establish that contrary to the Petitioner's allegation, the authorities had not been inactive, in fact, had been quite active and had prosecuted and suspended the mining license of the offender mine operators if and when violations have taken place.

In view of the above observation, this Court is inclined to accept the Respondent's objection that the Petitioner has failed to demonstrate whether he has brought to the attention of 1st to 5th Respondents of specific violations and whether the said Respondents have failed or refused to perform, in violation of the provisions of the respective statutes.

Another reason why this application has to fail is that, the permits submitted to Court have all expired. The permits granted have a specific time period. None of the parties submitted to this Court any new permits. Thus, issuing a writ to quash a nonexistent permit is futile. It is trite law that Courts will not issue a prerogative writ if it is futile.

However, this Court observes that in granting approvals and licenses for mining activities, 1st -6th Respondents should strictly adhere to the provisions of the respective statutes that govern them and should be satisfied that the requirements are met before issuing the approvals and the said approvals should be granted according to law.

Therefore, after considering all the materials submitted and the submissions made, this Court finds the objections raised by the Respondents succeed. In any event, we find that the Petitioner has failed to establish his case to the satisfaction of this Court.

Accordingly, we are not inclined to grant the reliefs prayed and for the reasons set out in this judgment, this application is dismissed without cost.

Judge of the Court of Appeal

C.P Kirtisinghe, J

I agree

Judge of the Court of Appeal