
IN THE DISTRICT COURT OF COLOMBO

NIHAL SRI AMERESEKERE of
No. 167/4, Sri Vipulasena Mawatha,
Colombo 10.

PLAINTIFF

No. 3231/SPL.
Nature : Special
Procedure : Regular

- Vs -

HOTEL DEVELOPERS (LANKA) LIMITED, formerly
known as LANKA JAPAN HOTELS LIMITED, and
of No. 16, Alfred Place, Colombo 3.

DEFENDANT

On this Eleventh day of January 1991

THE PLAINT of the Plaintiff abovenamed appearing by J.W.D.Perera, practising under the name and style of DE SILVA & PERERA, with his Assistant Vernon Gooneratne, his Attorneys-at-Law, states as follows :

1. a) The Plaintiff is a Fellow Member of the Institute of Chartered Accountants of Sri Lanka and a Fellow Member of the Institute of Chartered Management Accounts of the United Kingdom, and the Managing Director of Comindtax Management Service Ltd., incorporated under the Companies Ordinance (Chapter 145) of the Legislative Enactments, and having its Registered Office at No. 167/4, Sri Vipulasena Mawatha, Colombo 10.
- (b) The Plaintiff is practising as a Business and Management Consultant and has a prestigious Clientele and is also the Lead Consultant to a large World Bank Funded Project in Sri Lanka.
- (c) The Plaintiff is a Subscriber to the Memorandum and Articles of Association of "LANKA JAPAN HOTELS LIMITED holding 70,000 Ordinary Shares of Rs 10.00 each and a Director of the said Company, which Company changed the name to "HOTEL DEVELOPERS (LANKA) LIMITED" the Defendant Company abovenamed on 20.10.1983.

True copies of the Memorandum and Articles of Association of the said "Lanka Japan Hotels Limited", its Certificate of Incorporation dated 15.03.1983, the Form 48 notifying the first Directors of the said Company, the Form 43 notifying the change of the name to HOTEL DEVELOPERS (LANKA) LIMITED as aforesaid and the Certificate dated 20.10.83 giving effect to the change of name to "HOTEL DEVELOPERS (LANKA) LIMITED as aforesaid and the Memorandum & Articles of Association of Hotel Developers (Lanka) Limited, as had been subsequently amended, are annexed hereto marked P1, P2, P3, P4(a), P4(b) and P5 respectively and are pleaded as part and parcel of this Plaint.

2. (a) The Defendant abovenamed is a Limited Liability Company duly incorporated under the Companies Act, No. 17 of 1982 and having its Registered Office at the above mentioned address and also an Operational Office at No.1000, Echelon Square, Lotus Road, Colombo 01, within the jurisdiction of this Court, sometimes hereinafter referred to as "HOTEL DEVELOPERS".

(b) The said Hotel Developers was formerly known as "Lanka Japan Hotels Limited" which name was changed to its present name of "HOTEL DEVELOPERS (LANKA) LIMITED" on 20.10.83 as referred to in paragraph 1(c) above.

(c) The said Hotel Developers is the owning Company of the COLOMBO HILTON HOTEL situated at Echelon Square, Colombo, Sri Lanka.
3. The Defendant Company abovenamed is situated and the cause of action hereinafter set out arose at Colombo within the jurisdiction of this Court.
4. (a) The Defendant Company was promoted, amongst others by Mitsui & Co. Ltd., and Taisei Corporation of Japan (hereinafter sometimes called and referred to as "Mitsui/Taisei Consortium") to implement and operate a 5 Star Class International Hotel at the Echelon Square, Colombo, inter-alia having 452 Guest Rooms in 2 towers, going up 22 Floors, with covered car parking for 400 vehicles.

(b) The said Mitsui/Taisei Consortium undertook to develop and implement the said Hotel, on a fixed price turnkey basis, acting jointly and severally with another institution called KANKO KIKAKU SEKKEISHA YOZO SHIBATA & ASSOCIATES Architects of Japan, who designed and developed the Architectural Plans for the said Hotel Project and subsequently carried out the supervision of the construction work.

(c) The Defendant Company published a Prospectus dated 6.3.84 for the

Public Issue of Shares and the said Prospectus set out the relevant matters in relation to this Hotel Project. A true copy of the said Prospectus, marked P6 is annexed hereto and pleaded as a part and parcel of this Plaint.

5. (a) Since the said Mitsui/Taisei Consortium had failed to implement and deliver the said Hotel as had been agreed upon, the Plaintiff instituted in this Court the Action bearing No. 3155/Special, against the said three Japanese Companies, the Defendant Company and its Directors on 13.9.90, and inter-alia prayed for the following interim injunctions :

"(g) For an Interim Injunction restraining the said Mitsui/Taisei Consortium and the said architects, the 1st, 2nd and 3rd Defendants respectively, by themselves their representatives; servants and agents or otherwise howsoever, from demanding, claiming drawing, receiving and/or collecting any monies, whatsoever in any manner howsoever, under the said Contracts and Agreements, namely; the Construction Agreement, Supplies Contract Design & Supervision Contract, Loan Agreement and the said two Guarantees and referred to in the plaint, until the final determination of this action."

"(h) for an Interim injunction restraining the 4th Defendant Company by itself, its Directors, servants, and Agents or otherwise, howsoever, from entertaining any demand and/or claim from the 1st and/or the 2nd and/or the 3rd Defendants abovenamed in relation to the said claims and payments allegedly due to the 1st and/or the 2nd and/or the 3rd Defendants and/or paying any monies, whatsoever in any manner, howsoever, under the said Construction Agreement, Supplies Contract, Design & Supervision Contract and Loan Agreement referred to in the Plaint until the final determination of this action."

- (b) On 18.9.90, the learned District Judge granted and issued Enjoining Orders in the terms, as set out in the preceding paragraphs 5(a)(g) & (h) above and issued Notice of Interim Injunction.
- (c) The said Enjoining Order prohibit any payment whatsoever to the said Japanese Companies under all the Agreements/Contracts referred to therein, and the said State Guarantees, until the Application for the Interim Injunctions is finally determined.
- (d) Presently the inquiry into the said Application for Interim

Injunction is pending and the Answer of the Defendants are due on 28.01.91.

True copies of the said Enjoining Orders are marked P7(a), P7(b), P7(c) and P7(d) respectively and are pleaded as part and parcel of this Plaint.

6. (a) The Plaintiff was thereafter in receipt of a Notice of Meeting of the Board of Directors of the Defendant Company fixed for the 16th October 1990 notwithstanding the inability intimated by the Plaintiff to attend such Meeting. The Agenda of the said Meeting contained items relating to the said Action DC Colombo Case No.3155/Spl instituted by the Plaintiff in the District Court of Colombo and the Audited Accounts of the Defendant Company for the Year Ended 31st March 1990.

(b) The Plaintiff who was out of the Republic of Sri Lanka at the time on the receipt of the said Notice, addressed two Memoranda to the Board of Directors, taking exception to the participation at the said Meeting of C.L.Perera, Chairman, K.N.Choksy and also Messrs K. Koboi and K.Ito, Directors, on the said subject matters in view of conflict of interest.

Additionally the Plaintiff stated that he could not accept the Accounts forwarded as the said Action filed by him in Court would have a direct impact on the said Accounts and suggested that the Auditors be furnished with the particulars of the papers filed in the said Action, for a Report. At the same time the Plaintiff addressed the General Manager on the same lines. True copies of the Notice, Memoranda and the said Letter are annexed hereto marked P8 and P9(a), P9(b) and P9(c) respectively and are pleaded as part and parcel of this plaint.

(c) The Plaintiff annexes a true copy of the Minutes of the said Meeting which would indicate that one of the matters urged by the Plaintiff was considered and rejected, on the ground that there had been no conflict of interest as far as C.L.Perera and K.N.Choksy were concerned.

(d) The Board had also noted that the said case has no relevance to the said Accounts.

(e) The Plaintiff states that the said decisions given at (c) and (d) above were wrong. The said Minutes are marked P10 and pleaded as part and parcel of this plaint.

7. (a) The General Manager of the Defendant Company, again addressed the Plaintiff in connection with the Audited Statement of Accounts for the Year ended 31st March 1990 forwarding Certificate Formats dated 22nd October 1990 in relation to the Assets and Liabilities

of the Defendant Company required by the Auditors from each Director.

- (b) The Plaintiff wrote to the Auditors of the Defendant stating that he was of the opinion that the Fixed Assets of the Defendant are incorrectly stated in size, specification, quantities and inventory and that the Fixed Asset values are grossly overstated. The Plaintiff also stated that the Long-Term liabilities of the Defendant had been grossly overstated. A true copy of the said letter dated 19.11.1990 is annexed hereto marked P11 and pleaded as a part and parcel of this Plaintiff.
 - (c) The plaintiff also addressed a Memorandum to the Board of Directors of the Defendant dated 22.11.90 regarding the Financial Accounts for the Year Ended 31st March 1990 and the Directors' Report. With regard to the Balance Sheet the Plaintiff suggested that Notes should be included, regarding the Fixed Assets of the Defendant Company with particular reference to the Hotel Building and the Furnishings, Fixtures and Equipment, its Long-term liabilities and the fact of an Action having been filed in the District Court of Colombo and of the order made therein. A true copy of the said Memorandum is annexed hereto marked P12 and is pleaded as part and parcel of this plaintiff.
- 8.
- (a) The Plaintiff attended a Meeting of the Board of Directors of the Defendant on the 22nd November 1990 which was convened for the purpose, inter-alia, of considering a report of the District Court proceedings in the action filed by the Plaintiff and to finalise the draft Audited Accounts of the Defendant Company for the Year Ended 31st March 1990.
 - (b) When the aforesaid first subject matter came up for discussion, K.N. Choksy, Director of the Defendant Company pointed out that since one of Director's i.e. the Plaintiff, had instituted this Action, naming the other members of the Board as Defendants, that the proper procedure would be, that the Plaintiff should withdraw from the said Board Meeting, for the duration of the discussion in relation to the said subject matter.
 - (c) Prior to withdrawing as requested by the said Director, from the said Board Meeting, the Plaintiff dictated to the Secretaries the following statement :
- "I had instituted this action as a Shareholder in the right of the Company and its Share holders and that accordingly a conflict of interest arises between the Company and Mitsui & Company Ltd., and the Taisei Corporation and their representatives on the Board."

The Plaintiff thereafter withdrew from the said Board Meeting.

- (d) Disregarding what the Plaintiff had pointedly stated the said Board continued deliberations and discussions on the said subject matter, with the presence and participation of K. Ito, the representative of Mitsui/Taisei Consortium, the 1st and 2nd Defendants in the said Case, who if at all, was the Director who should have been the person who should have been requested to withdraw from the said Board Meeting, since it was the interests of the Mitsui/Taisei Consortium that were in conflict with the interests of the Defendant Company.

9. (a) The Auditors of the Defendant Company, Messrs Ford, Rhodes, Thornton & Co. had on the 7th November 1990 suggested to the Board of Directors the inclusion of a Note to the Balance Sheet to the effect :

"One of the Directors of the Company has challenged in Courts the value of the building stated in the Balance Sheet at Rs.2,669 Mn. and the value of Furniture, Fittings and Equipment stated as Rs 295,682,000/=. This would also affect the figure shown as liability to the lender".

- (b) The Secretary, Ministry of Finance had written to the Chairman of the Defendant Company on the 19th November 1990 stating that the Government Directors on the Board of the Defendant Company should certify the Accounts only after the inclusion of a Note to the said Accounts indicating the factual position regarding the Case filed by the Plaintiff, in accordance with the advice received from the Auditor General in this regard. The Secretary Ministry of Finance suggested an amendment in the last sentence of the text of the said Note of the Auditor in respect of the word "would".
- (c) Accordingly, the Board adopted the said Accounts subject to the inclusion of the said Note as set out in the said Letter dated 07.11.90 from the Auditors, amended as per the Letter dated 19.11.90 from the Secretary, Ministry of Finance. The Plaintiff however dissented.

True copies of the said Letters referred to herein above are annexed hereto marked P13 and P14 respectively and pleaded as part and parcel of this plaint.

10. (a) The Plaintiff was informed by the Secretary to the Defendant Company, by letter dated 26th November 1990 that a Meeting of the Board of Directors of the Defendant Company would be held on the following day 27th November 1990 for the purpose of approving the Director's Report together with the Audited Accounts.

- (b) In view of the short Notice of the said Meeting the Plaintiff was unable to attend the said Meeting but forwarded a Memorandum dated 27.11.1990 addressed to the Board of Directors of the Defendant Company, through the Secretaries of the Company, to be tabled at the said Meeting.
- (c) In the said Memorandum the Plaintiff stated that he could not accept the Balance Sheet as correct, that he did not agree with the Auditor's Note to the Balance Sheet as set out herein above and that it would be improper for the representative of the Mitsui/Taisei Consortium to be present at the said Meeting.

True copies of the said letter dated 26th November 1990 and the said Memorandum dated 27th November 1990 are annexed hereto marked P15 and P16 respectively and are pleaded as part and parcel of this plaint.

11. (a) The Seventh Annual Report of the Defendant has been printed and circulated amongst the Shareholders together with a Notice that the Seventh Annual General Meeting of the Defendant Company will be held on the 21st December 1990, and that the Director's Report and the Auditor's Report on the Accounts for the Year Ended 31st March 1990 to be received and considered was the first item on the Agenda at the said Meeting as set out at page 1 of the said Annual Reports.
- (b) The Note referred to hereinabove appears at page 14 of the said Annual Report under number 19 and reads :

"One of the Directors of the Company has challenged in Courts the value of the building stated in the Balance Sheet at Rs 2,669.0 Mn. and the value of the Furniture, Fittings and Equipment stated as Rs 295,682,000/-. This may also affect the total figure shown as liability to the Contractor under Construction Agreement dated 31st January 1984."

The said Annual Report is annexed marked P17 and pleaded as part and parcel of this Plaint.

12. The Plaintiff states, that the said Note 19 herein above mentioned:
- (a) Contradicts materially the text of the Note as prepared by the Auditors by their Letter dated 7.11.90;

- (b) Is in complete violation of the observations of the Secretary, Ministry of Finance by his letter dated 19th November '90 aforesaid, made on the advise of the Auditor General. The Government of Sri Lanka is the major Shareholder of the Defendant Company holding 65% of the Shares in the Defendant Company.
 - (c) Is in violation in terms of the adoption of the said Accounts at the Board Meeting of the Defendant Company held on 22.11.90.
 - (d) Ignores the specific terms of the Enjoining Orders issued by the District Court of Colombo in DC Colombo Case No. 3155/Special wherein reference is made to the Construction Agreement, Supplies Agreement, Design and Supervision Contract, the Loan Agreement and the State Guarantees referred to in the said Action and herein; prohibiting the Defendant Company from making any payments whatsoever under all the said Agreements/Contracts.
 - (e) Constitutes an attempt to mislead the Shareholders, particularly those amongst the General Public, of the true position of the state of affairs of the Defendant Company's finances.
 - (f) Has been designed to obtain the approval of the Shareholders, of the Defendant Company, in a subtle manner, to nullify or circumvent, the orders made by Court, prohibiting any payments whatsoever under any of the said Agreement/Contracts.
13. (a) Notwithstanding the fact that the Plaintiff insisted that the Directors Report too should refer to the litigation initiated by the Plaintiff in connection with the serious breaches of the several Agreements and Contracts, the Report adopted by the Directors has no reference whatsoever to the fact that an Action had been instituted in a Court of Law, a derivative Action in the right of the Company, in which several allegations of misconduct of certain Directors has been made.
- (b) The printed document P17 at page 1, refers to the Agenda of the Meeting. The first item is "To receive and consider the Report of the Directors and the Auditors and the Statement of Accounts for the Year Ended 31st March 1990." The said Annual Report does not contain a copy of the Directors Report as required by Law.
- A true copy of the said Director's Report circulated amongst the Directors by letter dated 10th December 1990 is annexed hereto marked P18 and pleaded as part and parcel of this Plaint.
14. (a) The Plaintiff was in receipt of a letter dated 5th December 1990 informing him that the Directors had met on the 27th November 1990, the date fixed for the approval of the Director's Report. The said letter also gave information of the Directors present at the

said Meeting. They were :

Cornel L. Perera
K. Shanmugalingam
D. Peter S. Perera
K. Ito

A copy of the said letter is annexed hereto marked P19 and is pleaded as a part and parcel of this Plaintiff.

- (b) The Plaintiff as aforesaid had sent a Letter explaining the reason for his absence and also a Memorandum to be circulated amongst the Directors. The Plaintiff has received a letter dated 28.11.90 from the Secretaries to the Defendant Company stating that the said Memorandum had in fact been circulated at the said Board Meeting. A true copy of the said Letter dated 28.11.90 is annexed hereto marked P20 and is pleaded as a part and parcel of the Plaintiff.
- (c) The matters referred to herein above confirms the apprehensions of the Plaintiff in his Letter to the Board of Directors of the Defendant Company, that when the Balance Sheet and the Directors Report are considered by the Board, that the representative of the Mitsui/Taisei Consortium should not be present as there was a conflict of interest.
- (d) The Plaintiff has been in receipt of a copy of a letter dated 22.11.90 addressed by the said K. Ito Director of the Defendant Company and the Representative of the said Mitsui/Taisei Consortium addressed to the Chairman of the Defendant Company requesting a modification of the said Note 19 which had previously been approved, to be amended as follows :
- "One of the Directors of the Company (Mr. N.S. Ameresekere) has challenged in Courts, stating that the Hotel Building is not in conformity with the terms and conditions under the Construction Agreement of 31.01.84".
- A true copy of the said letter is annexed hereto marked P21 and is pleaded as a part and parcel of this Plaintiff.
- (e) It is patently clear that the request made by the Japanese has been accommodated, without raising the suspicions of the Nominee Directors of the Government of Sri Lanka, who had placed their hands to the said Accounts.
- (f) The Plaintiff replied to the letter of the General Manager of the Defendant Company forwarding a copy of the Director's Report,

and stated that the said General Manager had endeavoured to suppress the matter of the serious discrepancies that had been discovered and disclosed to the Board and further that he had failed to report the subject matter of the Enjoining Order issued on the Defendant Company by the District Court of Colombo in the said D.C. Colombo Case No. 3155/Special. A true copy of the said letter is annexed marked P22 and is pleaded as a part and parcel of this Plaintiff.

15. (a) The Annual General Meeting of the Shareholders of the Defendant Company was held on the 21st December 1990 and Item I on the Agenda was adjourned for the 17th January 1991.
- (b) Immediately after the adjournment of the said Annual General Meeting, an Extraordinary General Meeting of the Defendant Company was held for the purpose of amending the Articles of Association of the Defendant Company to reduce the number of Nominee Directors of Cornel and Co. Ltd., and to increase the number of Nominee Directors of the Government of Sri Lanka.

A true copy of the Notice of the said Extraordinary General Meeting, together with a leaflet explaining the said Amendments, is annexed hereto marked P23(a) and P23(b) and are pleaded as a part and parcel of this Plaintiff.

16. (a) The Plaintiff was in receipt of a letter with an annexure both dated 22.12.90, intimating to the Plaintiff, that the Plaintiff, ceased to be a Director of the Defendant Company, with immediate effect; since Cornel & Co. Ltd.'s, Nominee Directorates, on the Defendant Company's Board of Directors, had been reduced from 3 to 2; and that the Chairman and Managing Director, Cornel L. Perera, had appointed his wife to the Board of the Defendant Company.

A true copy of the said letter together with the said annexure marked P24(a) and P24(b) are annexed hereto and pleaded as a part and parcel of this Plaintiff.

- (b) The Plaintiff states:
- (i) that, the endeavour to remove the Plaintiff from the Board of Directors of the Defendant Company is an act of malice against the Plaintiff who had made every endeavour to unearth a fraud on the Defendant Company and that such endeavour is calculated to stymie and scuttle, the Plaintiff's efforts in the said Action; and such endeavour is further detrimental to the very interests of the Defendant Company.
- (ii) that, the Plaintiff had at all times acted in the best interests of the Defendant Company and its Shareholders; the Defendant Company, being a public quoted company.

- (iii) that, the said Action D.C. Colombo Case No.3155/Special has been instituted by the Plaintiff in the interest of the Company and its Shareholders, which included the Public, the Government of Sri Lanka, and the said Cornel & Co. Ltd.
- (iv) that, the said action by Cornel L. Perera, Chairman & Managing Director, referred to in paragraph 16(a) hereinabove, for reasons best known to him, was immediately after the Plaintiff had brought to light the surreptitious amendment of the said Accounts as referred to hereinabove, and further,
- (v) that, such action by Cornel L. Perera, referred to in paragraph 16(a) hereinabove, was immediately, after the Plaintiff's Memorandum dated 20.12.90, submitted to the Members of the Board of Directors of the Defendant Company, wherein the said Directors was required by the Plaintiff to individually deny in writing, if they so disagreed with the facts stated in the said Memorandum, which are particularly in relation to the said D.C.Colombo Case No.3155/Special, and if not, under the given circumstances as set out in the said Memorandum, whether the said Mitsui/Taisei Consortium should be paid from Public Funds, under the said State Guarantees? The Plaintiff states that upto date, the Plaintiff has not received any denial from any one of the Directors of the Defendant Company.

A true copy of the said Memorandum is marked P25 annexed hereto and pleaded as part and parcel of this Plaint.

- (vi) The Plaintiff having been associated from the very inception of the Hotel Project in 1979 and a Subscriber, Member and Director from the very formation and incorporation of the Defendant Company on 15.03.83, had later, as per the arrangements of the Investment Agreement entered into on 31.01.84, to accommodate the Government of Sri Lanka also as a party to the said Hotel Project, consented to be a nominee of Cornel & Co. Ltd., for convenience of arrangements. The other nominee being F.G.N. Mendis, Chairman of the Delmege Group, who also had been a Subscriber, Member and Director from the very formation and incorporation of the Defendant Company; Delmege Forsyth & Co. Ltd. being also a Promoter named in the said Prospectus.
- (vii) that, the endeavoured attempt to remove the Plaintiff from the Board of Directors of the Defendant Company, as referred to in paragraph 16(a) hereinabove is of no force or avail in Law, for the reason that in removing the Plaintiff, Cornel L. Perera has acted mala fide and not in the interests of the Defendant Company and its Shareholders.

17. The Plaintiff has been in the receipt on the 4th January 1991, of a Notice to the Shareholders of the Defendant Company that the adjourned Annual General Meeting of the Defendant Company will be held on the 17th January 1991 at 3 p.m at the Committee Room of the Bandaranaike Memorial International Conference Hall, Bauddhaloka Mawatha, Colombo 7, for the purpose of transacting unfinished business. The Annual General Meeting was commenced at the Amethyst Room of Colombo Hilton on the 21st December 1990. A true copy of the said Notice is annexed hereto marked P26 and is pleaded as part and parcel of this Plaint.
18. The Plaintiff states that any approval :
- (a) of the Directors Report, not attached to the Accounts P17 and containing no reference whatsoever to the litigation against the said Mitsui/Taisei Consortium and the Architects;
 - (b) of the omission of the fact that an Enjoining Order has been entered against the Defendant Company and without a disclosure of its full terms;
 - (c) of the Auditor's Report and the Balance Sheet altered haphazardly as set out herein above,
- would be an endeavour to obtain approval of the members of the Defendant Company, with a view to circumventing and nullifying the said Orders of Court, without disclosing to the members the true position of the D.C. Colombo Case No.3155/Special.
19. The Plaintiff further states that the Defendant Company's financial position is such that it would not be able to continue operations, any further, with any obligation service to the said overstated debts, fraudulently claimed by the said Mitsui/Taisei Consortium, and would compel the Company to go into liquidation.
20. The Plaintiff further states that :
- (a) though he was only a member of the Board of Directors of the Defendant Company without Executive powers he has spent considerable and valuable time and effort on behalf of the Defendant Company, its Shareholders and himself qua Shareholder and in the Public Interest in investigating and exposing the fraud perpetrated by the Mitsui/Taisei Consortium and Architects, on the Defendant Company and its Shareholders.
 - (b) that unless the reliefs prayed for hereinafter are granted irreparable mischief and irreparable loss, damage and detriment will be caused to the Defendant Company, its Shareholders including the Plaintiff and the General Public.

21. In the premises aforesaid a Cause of Action has accrued to the Plaintiff to sue to the Defendant Company :
- (a) For a declaration that the Note 19 at Page 14 to the Accounts for the Year Ended 31st March 90, now circulated to the Shareholders, has failed to set out fully the Enjoining Orders issued by Court on 18.9.90 in D.C.Colombo Case No. 3155/Special, in this regard.
 - (b) For an Order that the Note 19, at Page 14 to the Accounts for the Year ended 31st March 90, now circulated to the Shareholders, be amended to set out fully, the Enjoining Orders issued by Court on 18.9.90 in D.C. Colombo Case No. 3155/Special in this regard.
 - (c) For an Order directing the Defendant Company to make a full and factual disclosure in the Directors Report with respect to the state of the Company's affairs, particularly its inability to pay the Liabilities as shown on the Balance Sheet, the true and correct financial position of the Company and the facts pertaining to the said D.C. Colombo Case No.3155/Special, and further,
 - (d) For an interim injunction restraining the Defendant Company, by itself and by its Directors, Shareholders, Servants, Agents or whomsoever on its behalf, from tabling and adopting the said Accounts with Note 19 at Page 14 to the Accounts for the Year Ended 31st March 90, at the Adjourned Annual General Meeting on the 17th January 91 or at any Meeting thereafter, until the final determination of this Action.
22. The Plaintiff values this Action at Rs 100,000.00 for the purpose of Stamp Duty.

Wherefore the Plaintiff Prays:

- (a) For a declaration that the Note 19 at Page 14 to the Accounts for the Year Ended 31st March 90, now circulated to the Shareholders, has failed to set out fully the Enjoining Orders issued by Court on 18.9.90 in D.C.Colombo Case No. 3155/Special, in this regard.
- (b) For an Order that the Note 19, at Page 14 to the Accounts for the Year ended 31st March 90, now circulated to the Shareholders, be amended to set out fully, the Enjoining Orders issued by Court on 18.9.90 in D.C. Colombo Case No. 3155/Special in this regard.
- (c) For an Order directing the Defendant Company to make a full and factual disclosure in the Directors Report with respect to the state of the Company's affairs, particularly its inability to pay

the Liabilities as shown on the Balance Sheet, the true and correct financial position of the Company and the facts pertaining to the said D.C. Colombo Case No.3155/Special, and further,

- (d) For an interim injunction restraining the Defendant Company, by itself and by its Directors, Shareholders, Servants, Agents or whomsoever on its behalf, from tabling and adopting the said Accounts with Note 19 at Page 14 to the Accounts for the Year Ended 31st March 90, at the Adjourned Annual General Meeting on the 17th January 91 or at any Meeting thereafter, until the final determination of this Action.
- (e) For Costs; and
- (f) For such further and other reliefs as to the Court shall seem meet.



Attorneys-at-Law for the Plaintiff

Documents Filed with the Plaintiff

- 1. Proxy of the Plaintiff
- 2. Documents Marked P1 to P26
- 3. Affidavit of the Plaintiff



Attorneys-at-Law for the Plaintiff

Settled by:

- A.A.M. Illyas, Attorney-at-Law
- P. Naguleswaran, Attorney-at-Law,
- P. Navaratnarajah, Queen's Counsel