

**IN THE DISTRICT COURT OF COLOMBO**

Nihal Sri Amarasekere  
of 167/4, Sri Vipulasena  
Mawatha,  
Colombo 10

**PLAINTIFF**

**Case No. 21819/MR**

**Vs.**

1. Gamini Lakshman Peiris  
of "Visumpaya", Staples  
Street, Colombo 2  
and also of 37, Kirula  
Road ,  
Colombo 05
- 2 Hotel Developers  
(Lanka) Ltd.,  
C/o of Colombo Hilton  
Sports Complex,  
Echelon Square,  
Lotus Road,  
Colombo 01

**DEFENDANTS**

On this 21<sup>st</sup> day of May 1999

**The Statement of Objections of the 1<sup>st</sup> Defendant** above named appearing by James Henry Paul Ratnayeke, Uswatteliyanage Sudath Nilupul Prasansa Perera and Punyakanthi Navaratne practising in partnership under the name style and firm of PAUL RATNAYEKE ASSOCIATES and their assistants Shalindri Jayasinghe, Chandrani Sooriyarachchi Gamage, Ruchira Anthony, Amali Alawwe, Sureni Wirasinha, Iresha Fernando, Charmalee Weerasekera, Shantha Hewa Kosgodage, Gamini Balasuriya and Rozani Rodrigo its Attorneys-at-Law states as follows:

1. The 1<sup>st</sup> Defendant states that the notice requiring the discovery of documents is vague and/or is wide in scope and/or is not in conformity with section 102 of the Civil Procedure Code.
2. The 1<sup>st</sup> Defendant states that the order directing discovery has been made per incuriam.
3. The 1<sup>st</sup> Defendant states that in any event, documents in the Ministry of Finance are and have been in the possession and power of the Hon. Minister of Finance.
4. In any event and without prejudice to the aforesaid, the 1<sup>st</sup> Defendant states that
  - (i) documents in the Ministry of Finance are in general of a confidential and/or of a sensitive nature;
  - (ii) the divulging of such documents may cause jeopardy to and would be against the public interest.

5. In any event, the 1<sup>st</sup> Defendant states that the application for discovery has been made and order obtained to circumvent the provisions of Section 103 of the Civil Procedure Code.
6. In any event, the 1<sup>st</sup> Defendant pleads that the Plaintiff has failed to establish and/or even to prima facie demonstrate that the documents (sought to be discovered) is relevant and/or sufficiently material to the facts in issue in the case.
7. The 1<sup>st</sup> Defendant pleads that the application for discovery is of a "fishing nature".
8. The 1<sup>st</sup> Defendant further states that the alleged notice dated 4th May 1999 has been issued per incuriam and/or any order made has been made per incuriam.
9. In any event and without prejudice to the aforesaid the 1<sup>st</sup> Defendant states that the documents as described and/or as referred to in the said notice are documents which ex facie, the notice, ( i.e., on the face of the notice) cannot be in the possession of the 1<sup>st</sup> Defendant in his personal capacity.
10. In any event, and without prejudice to the aforesaid, the Plaintiff is on the face of the notice not entitled to discovery of documents as set out therein.
11. In any event, in law, no order for discovery as set out in the notice can be made.
12. The 1<sup>st</sup> Defendant states that in the circumstances, the application has not been made bona fide for the purposes of the action.
13. The affidavit of the 1<sup>st</sup> Defendant is annexed in support of the averments morefully contained herein.

**WHEREFORE THE 1<sup>st</sup> Defendant prays**

- a) the application of the Plaintiff purportedly made under Section 102 of the Civil Procedure Code be dismissed and/or disallowed;
- b) for costs; and
- c) for such further and other reliefs as to Your Honours Court shall seem meet.

*Paul Ratnayekke Associates*  
**REGISTERED ATTORNEYS-AT-LAW FOR THE 1<sup>ST</sup> DEFENDANT**

**Settled by**

S. Harsha Amarasekera  
Attorney-at-Law  
J. Romesh de Silva P.C