

## TRANSLATION

BEFORE THILAK THABREW ESQUIRE, ADDITIONAL DISTRICT JUDGE, COLOMBO

Recorded by: G. Jayasinghe

DISTRICT COURT CASE NO. 19849/MR

22.08.2000

### ORDER

Whilst the Plaintiff has, by Motion dated 12.5.99 filed by him, made an Application to require the Defendant to answer the set of Interrogatories filed by the Plaintiff in this Case on 23.2.98; upon the Defendant having filed Objections in regard to the said Application, both parties have filed Written Submissions.

An inquiry having been held by this Court, as to whether the Defendant ought to answer the set of interrogatories filed by the Plaintiff dated 23.2.98 in this Case, this Court by its Order dated 30.7.98 has made Order that it is not necessary for the Defendant to Answer the set of Interrogatories. In addition to the Order made on the Interrogatories, this Court by its Order dated 30.7.98, has made another Order on the Application for Discovery of Documents made by the Plaintiff. Accordingly, the Order dated 30.7.98 consists of two sections in relation to two Applications. Since the Order made that day on the Application for Discovery of Documents had been against the Defendant, the Answer of the Defendant has been struck-out and the Case had been fixed for ex-parte Trial.

The Defendant having made an Application to the Court of Appeal for Revision against the said Order, the Court of Appeal which considered only the Order made by the District Court on 30.7.98 on the Application for Discovery of Documents, set aside the District Court Order dated 30.7.98 having allowed the application made by the Defendant. Thereafter, although the Plaintiff has made an Application to the Supreme Court for Leave to Appeal against the Order made by the Court of Appeal, subsequently the said Application has been withdrawn. In the meanwhile, the Plaintiff had made an Application to the Court of Appeal for Leave to Appeal against the Order made by the District Court in relation to the Interrogatories, but at the inquiry held by the Court of Appeal in respect of that Application, the Plaintiff's Application was dismissed on the ground that the District Court's Order dated 30.7.98 has already been set aside on Application by the Defendant.

In any event, the Plaintiff has not even thereafter made an Application to the Court of Appeal for Revision of the Order dated 30.7.98 made by the District Court in relation to the set of Interrogatories.

Although the Order dated 30.7.98 of the District Court contained 2 Orders in relation to 2 Applications made by the Plaintiff namely on Interrogatories and for Discovery of Documents and though the Order made by the Court of Appeal on 11.2.99 states that the Order of the District Court dated 30.7.98 is being set-aside, it appears that the Court of Appeal has made the aforesaid Order dated 11.2.99, only on the Application made by the Defendant for Revision of the Order made against the Defendant in relation to the Discovery of Documents, out of the two Orders made on the very same day by the District Court.

However, the Order made by the District Court on Interrogatories has not been set-aside by the Order dated 11.2.99 of the Court of Appeal.

Since, the Order made by the District Court against the Plaintiff in relation to Interrogatories has not been set-aside by the Court of Appeal on an Application for Revision in relation to the said matter, the Order made by the District Court on 30.7.1998 on the matter of Interrogatories still stands in the very same manner. Hence, the Plaintiff has no right to seek an Order once again from Court to require the Defendant to Answer the said Interrogatories.

Therefore, I dismiss the Plaintiff's Application subject to taxed costs.

Sgd./ (Thilak Thabrew)

Addl. District Judge – Colombo  
22.8.2000

Translation certified correct



**W. A. SAMARATUNGA**  
Sworn Translator of the Govt. of Sri Lanka  
Legal Draftsman's Department  
COLOMBO-12- SRI LANKA