

**Sri Lanka's President, R. Premadasa turns 180°, whilst Prime Minister, Ranil Wickremesighe and State Minister for Defence, Ranjan Wijeratne commends litigation by Nihal Sri Ameresekere, whereas President, D.B. Wijetunga attempts to manoeuvre**

Derivative Action in Law Case No. D.C. Colombo 3155/Spl., had been instituted by Nihal Sri Ameresekere on 13<sup>th</sup> September 1990, with the consent and concurrence of then General Secretary of the United National Party, Ranjan Wijeratne, also the Minister of Planation Industries and State Minister for Defence.

**Minister Ranjan Wijeratne had not only endorsed the above litigation, but also had taken up the matter before the Cabinet of Ministers of Sri Lanka, and had followed up with his Letter of 15<sup>th</sup> November 1990 to President R. Premadasa.**

Consequent to discussions had by C. Gunasingham, Economic Advisor to President R. Premadasa with Nihal Sri Ameresekere, President, R. Premadasa had directed the Secretary to the President, K.H.J. Wijayadasa to write a very clear Letter on **17<sup>th</sup> December 1990** to the Ministry of Finance, **questioning as to why the Government did not take legal action, and left it to a minority Shareholder to do so ? At that stage only Enjoining Orders had been issued on 20<sup>th</sup> September 1990 by District Court of Colombo.**

The District Court of Colombo having promptly issued in September 1990 Enjoining Orders on the fraud perpetrated in the construction by Mitsui & Co. Ltd and Taisei Corporation of Japan of the Colombo Hilton Hotel, under Sate Guarantees, subsequently issued Interim Injunctions in October 1991 stating, *inter-alia*, as follows :

- # *the Contractors having performed a lesser volume of work, have attempted to obtain a larger sum of money... and the Plaintiff having raised the question concerning the basis for the payment of monies.*
- # *the other Defendants, [i.e .the Directors], as persons having connections concerning the said Hotel business, having intervened therein in such matter, acting to obtain the said monies, had not readily acted to conduct a correct examination.*
- # *they having prevented such correct examination, were attempting to, howsoever, effect the payment of monies.*
- # *they are exercising the influence, that they have gained in society, acting together with the Company, to prevent the raising of the questions concerning the matters of the work in connection with the Contracts, the Prospectus ...*
- # *their collaboration was adverse to the interest of the Shareholders of the Company, and that they were acting through such collaboration, in a manner amounting to defeat the interests of the Shareholders of the Company.*

The then Learned District Judge, P. Wijeyaratne Esqr., further observed, in his said Order; *inter-alia*, as follows;

"Accordingly, the present position is that the Defendants' statement, that they have performed their part of the Contracts and the willingness shown by the Company to accept the same, as set out by the Defendants, cannot be accepted as the basis for payment.... in fact, whether, as stated by the Plaintiff [*reference being to the 4<sup>th</sup> Defendant*], **this is a devious method of siphoning out, a large scale of foreign exchange from this country...**The significance, that is shown herein, is that generally, the Company which has to pay money, would be raising questions, in respect of such situation, and would not allow other parties to act arbitrarily...**If the position, that explains this is correct, then this actually, is an instance of acting in fraudulent collusion**".

Thereafter, the Supreme Court of Sri Lanka, the highest Judiciary, upheld the above Case and affirmed the Interim Injunctions, *inter-alia*, observing as follows in a Landmark Judgment reported in the 1992 Commonwealth Commercial Law Reports [1992] LRC (Comm) @ 636,

- # *the Plaintiff [reference being to the 4<sup>th</sup> Defendant] has succeeded in establishing that he has a legally enforceable right and that there is a serious question and prima-facie case and wrong-doer control, and that HDL is entitled to the reliefs claimed.*
- # *the Plaintiff [reference being to the 4<sup>th</sup> Defendant] has a reasonable and real prospect of success, even in the light of the defences raised in the pleadings, objections and submissions of the Defendants*
- # *the Plaintiff's [reference being to the 4<sup>th</sup> Defendant] prospect of success was real and not fanciful and that he had more than a merely arguable case*
- # *because in the circumstances of the case, the Directors, including the Government's representatives on the Board will not assist or are helpless to intervene*
- # *Interim Injunctions were granted to prevent the "syphoning out of money" from HDL and the Country*
- # *but for the Interim Injunctions, HDL, like Pyrrhus after the battle of Asculum in Apulia, might well be constrained to say, "One more such victory and we are lost".*
- # *it might be pointed out that it could not entirely be a matter of indifference to the Government ..... the Government made itself eventually responsible for the repayment of the monies borrowed by HDL*

**After such Supreme Court Judgment upon Member of Parliament Vasudeva Nanayakkara addressing a Letter on 9<sup>th</sup> March 1993 to President, R. Premadasa, appallingly he had directed his Secretary, K.J.H. Wijayadasa to address Letter dated 8<sup>th</sup> April 1993, taking completely a 180° shocking and intriguing turn around, after the Supreme Court Judgment in December 1992, compared to the firm stance taken previously by Letter dated 17<sup>th</sup> December 1990 only at the stage of issuance of Enjoining Orders in September 1990 !**

On the contrary, like Minister Ranjan Wijeratne, Prime Minister Ranil Wickremesigne had endorsed and appreciated Nihal Sri Ameresekere on the above litigation, whereas, President, D.B. Wijetunga had got others unconnected to interfere to manoeuvre.

**Amazon Books –**

[‘Colombo Hilton Hotel Construction - Fraud on Sri Lanka Government – Vol. 1 – Sri Lanka’s First Derivative Action in Law’](#)

[‘Colombo Hilton Hotel Construction - Fraud on Sri Lanka Government - Vol. 2 - Criminality Exposed, but Perversely Covered-up’](#)

**Google Books –**

[‘Colombo Hilton Hotel Construction - Fraud on Sri Lanka Government Vol. 3 - Settlement of a Fraud’](#)

[‘Socio-Political Realities - Hilton Hotel Fiasco & Ad hominem Legislation - Expropriation Law’](#)

**Given below :**

1. Letter dated 19.9.1990 of Minister Ranjan Wijeratne
2. Letter dated 18.9.1990 to Minister Ranjan Wijeratne
3. Letter dated 15.11.1990 of Minister Ranjan Wijeratne
4. Letter dated 14.11.1990 to Minister Ranjan Wijeratne
5. Letter dated 15.11.1990 to President R. Premadasa by Minister Ranjan Wijeratne
6. **Letter dated 17.12.1990 from K.H.J. Wejayadasa, Secretary to President, R. Premadasa**
7. **Letter dated 8.4.1993 from K.H.J. Wejayadasa, Secretary to President, R. Premadasa**
8. Letter dated 19.3.1993 of Member of Parliament, Vasudeva Nanayakkara
9. Letter dated 1.6.1993 of Prime Minister, Ranil Wickremesighe
10. Letter dated 13.5.1993 to Prime Minister, Ranil Wickremesighe
11. Letter dated 8.7.1994 to President, D.B. Wijetunga
12. 4 Enjoining Orders dated 20<sup>th</sup> September 1990 served on the Japanese and HDL

දුරකථන/தொலைபேசி/Telephones :

අමාත්‍ය  
அமைச்சர்  
Minister } 541539  
ලේකම්  
செயலாளர்  
Secretary } 545397  
පො. ලේකම්  
அந். செயலாளர்  
P. V. Secretary } 541540  
කාංගාලය  
அலுவலகம்  
Office } 2090154



27 SEP 1990

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பெருந் தோட்டத் தொழில் அமைச்சு  
MINISTRY OF PLANTATION INDUSTRIES

මගේ අංකය  
எனது இல. } MPI/MISC  
My No.

ඔබේ අංකය  
உமது இல. }  
Your No.

තැ. පො. / த.பெ. / P.O. Box 1553

55/75 { වොක්ස්හෝල් පවුම  
வாக்ஸ்ஹால் இழுந்தை  
Vauxhall Lane

කොළඹ 2  
கொழும்பு 2 } 19 SEPTEMBER 1990  
Colombo 2

Mr. Nihal Sri Ameresekere  
Comindtax Management Service Ltd.,  
167/4, Sri Vipulasena Mawatha  
COLOMBO 10.

My dear Nihal,

I am in receipt of your letter of 18th September 1990, giving cover to the plaint that you have filed.

I would like to discuss this matter, and shall let you know when I have some spare time.

Kind regards,

Yours sincerely,

  
Ranjan Wijeratne  
Minister of Plantation Industries

/cdes.

P60



**COMINIDTAX MANAGEMENT SERVICE LTD**  
BUSINESS & MANAGEMENT CONSULTANTS

167/4 SRI VIPULASENA MAWATHA, COLOMBO 10, SRI LANKA.

P.O. BOX 1796  
CABLES: 'NIHALSRI'

FAX: 697134  
TELEPHONE: 686364, 696814.

TELEX: 22489 SHALAK CE  
21549 DESIGN CE

18th September 1990

Mr. Ranjan Wijeratne, M.P.,  
Minister of Plantation Industries &  
States Minister for Defence,  
55/75, Vauxhall Lane,  
Colombo 02.

My dear Ranjan,

I had no option but to proceed with a certain course of action according to my conscience, and what I considered is right and proper in the public interest, though however, this may cause some ripples in certain quarters.

I enclose a copy of the Complaint, which sets out the relevant facts, that I filed in the District Court, on which an Enjoining Order has been issued by the learned District Judge.

Yours very sincerely,

Nihal Sri Ameresekeere

දුරකථන/தொலைபேசி/Telephones :

අමාත්‍ය  
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ලේකම්  
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Secretary } 545397  
පෞ. ලේකම්  
அந். செயலாளர்  
Priv. Secretary } 541540  
කාර්යාලය  
அலுவலகம்  
Office } 20901-4

7 NOV 1990



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பெருந் தோட்டத் தொழில் அமைச்சு  
MINISTRY OF PLANTATION INDUSTRIES

මගේ අංකය }  
எனது இல. }  
My No. }  
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உமது இல. }  
Your No. }

තැ. පෙ./த.பெ./P.O. Box 1553

55/75 { වොක්ස්හෝල් පවුමග  
வொக்ஸ்சோல் ஒழுங்கை  
Vauxhall Lane

කොළඹ 2 } 15th Nov. 1990  
கொழும்பு 2 }  
Colombo 2 }

Mr. Nihal Sri Ameresekere,  
Comindtax Management Service Ltd.,  
167/4, Sri Vipulasena Mawatha,  
Colombo 10

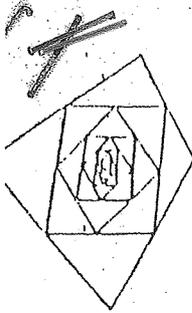
Dear Nihal,

I write to acknowledge your letter of 14th November, 1990,  
together with the connected documents.

I raised this matter at Cabinet on Wednesday 14th November,  
1990, and sent a copy of your letter along with the documents  
to His Excellency the President.

Yours sincerely,

Ranjan Wijeratne  
Minister of Plantation Industries  
& Minister of State for Defence



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CABLES 'NIIALSRI'

FAX: 697134  
TELEPHONE: 686664, 696884.

TELEX: 22489 SHALAK CE  
21549 DESIGN CE

14th November 1990.

Hon. Ranjan Wijeratne H.P.  
Minister of Plantation Industries and  
State Minister for Defence,  
No. 232/3, Havelock Road,  
Colombo 5.

My dear Ranjan,

I am extremely grateful for the opportunity you afforded me yesterday to brief you on the subject matter of the Hilton Hotel, notwithstanding the numerous duties and pressure of work you are subjected to.

I was relieved and very glad that I came and met you; the absolute confidence I had in you, as a person to forthrightly stand up for honesty, integrity and what is right, was fully vindicated.

Though this is a very serious matter, and I find with great surprise that no one seems to be having the courage to take the action, that such wrong rightly deserved; notwithstanding the fact that this has been reported on by me as a Professional Director. On the contrary, I am surprised to note that certain persons are even endeavouring to jeopardise this action, which could only be detrimental to the interest of the Country, the Government and the Company.

Your immediate grasping of the subject matter and your response has given me tremendous confidence.

As explained I took this action in the interest of the Country, the Government, the Company and also in the interest of safeguarding my name and reputation. I could not be a cahoot to fraud, even by silent inaction, whatever the consequences and the pressures, that I may have to face, as a result of my action, instituted according to my conscience. I have not claimed any personal relief for myself. The only relief prayed for is for the benefit of the Company and as a consequence for the Government.

The underlying fact is that 65% of the Shares of this Public Company is owned and held by the Government of Sri Lanka, i.e. the public, in addition to other direct public shareholdings.

It has now been pointed out in Court, by the principal Defendants that the Company whom they concede has a right to litigate had not done so or expressed any concern in this regard. Should the Government merely stand and watch the disclosure of this fraud and the action initiated in the interest of the government also, by only filing a proxy on behalf of the Company and the Government Nominee Directors ? and leave me to pursue this matter alone ?

I believe in the interest of what is right and proper that the Hon. Attorney General who has now filed proxy for the Company, should judiciously study the relevant salient facts and make a considered decision to take an active part in the action.

The facts disclosed and submission made have been vindicated by the issuance of an Enjoining Order and Notice of Interim Injunction by the learned District Judge.

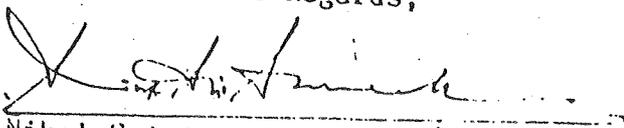
The next date fixed for inquiry, to go into the question of the Enjoining Order and the Issue of the Interim Injunction is 23rd November '90, and it would be important that the Hon. Attorney General makes a decision in this regard, prior to that date.

The Defendants claim the full governmental guarantees, which their Counsel stated in Court to be Rs 6000 lln. On a basis of 400 Rooms, this works out to Rs 15.0 lln. per room (cost + the accrued interest) notwithstanding the alleged fraud of a magnitude reckoned at over Rs 1500 lln.

I am sure that the Japanese Government would not endorse such conduct by Japanese Companies. Japanese Government's considerable Aid to Sri Lanka surely would not carry the concession that Japanese Companies have the right to conduct themselves in this manner in this country and get-off without being held accountable and responsible for such action.

May the blessings of the triple gem guide you further in your noble and rightful endeavours.

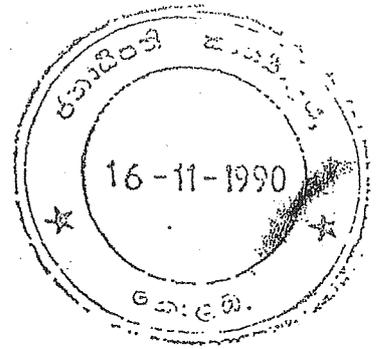
With My Warmest Regards,

  
Nihal Sri Ameresekere

P.S : I enclose a copy of an interesting News Paper Article I have received anonymously by post.



Ranjan Wijeratne, M.P.  
Minister of Plantation Industries



15th November, 1990

His Excellency R. Premadasa,  
President of Sri Lanka,  
Presidential Secretariat,  
Colombo 1

CONFIDENTIAL

Your Excellency,

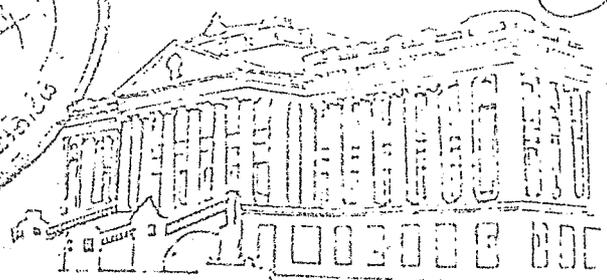
HILTON HOTEL

Further to the comments I made at the meeting of the Cabinet of Ministers on Wednesday 14th November, 1990, for your Excellency's information I am attaching a copy of a letter dated 14th November, 1990, addressed to me by Mr. Nihal Sri Amersekere, who has filed the injunction against the Contractors/Architects, together with the attached documents.

Yours sincerely,

Ranjan Wijeratne  
Minister of Plantation Industries  
& Minister of State for Defence

1990-12-24



All DST  
Share  
AC study His.  
Should we consult  
A.C. matter?  
EA/4/214/19/12

1990-12-19  
Secretary  
Ministry of Finance

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ஜனாதிபதி செயலகம்  
THE PRESIDENTIAL SECRETARIAT

My No. }  
Your No. }  
Colombo 1.

P177

December 17, 1990.

Mr R Paskaralingam  
Secretary/Finance

Hilton Hotel

I am forwarding a copy of a letter dated November 15, 1990, sent to His Excellency the President by the Hon. Ranjan Wijeratne, Minister of Plantation Industries, and Minister of State for Defence, on the above subject.

I am also forwarding copies of the enclosures sent by the Hon. Minister, including a letter dated November 14, 1990, sent by Mr Nihal Sri Ameresekere.

I should bring to your attention in this connection certain considerations that have been placed before His Excellency the President with regard to this matter.

One is that if public concern has not been openly expressed so far, it is because the subject has been sub judice from the outset. Another is that if the District Court action should lead to a determination that a fraud did take place, the question will be asked as to why the company in which the government has a majority stake did not take legal action itself. A further question would be why once Court action was taken, the company kept aloof although it carries primary responsibility to its shareholders and to the public to litigate the matter. Arising from this, it could be asked as to why it was left to a minority shareholder to take action to prevent public funds being utilised to pay for a fraudulent deal. This would have been the result if the Japanese companies had called in the government guarantee.

With regard to Japanese Government sensitiveness in the matter, it has been pointed out that there has been growing public concern in Japan over frauds involving Japanese companies and public personages. No Government in Japan, therefore, would like to be seen giving comfort to Japanese companies involved in frauds abroad.

In the light of these considerations, His Excellency has directed action by you to take up in Cabinet the question of the stand Government should take with regard to the Court

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21/12  
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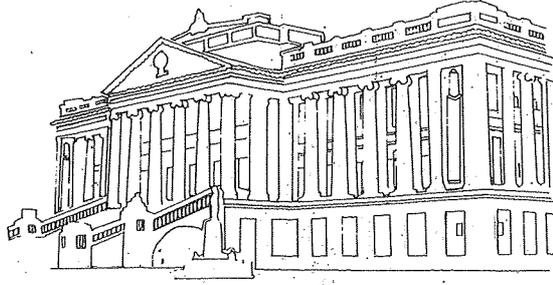
action now proceeding.

I would appreciate if His Excellency's direction could have your attention please.



(K H J Wijayadasa)

Secretary to the President



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ஜனாதிபதி செயலகம்  
THE PRESIDENTIAL SECRETARIAT

මගේ අංකය }  
எனது இல. } EA/4/214  
My No. }

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உமது இல. }  
Your No. }

කොළඹ 1.  
கொழும்பு 1.  
Colombo 1.

8th April 1993

Dear Sir,

Hilton Hotel

I am writing with reference to your letter dated 9th March 1993, addressed to His Excellency the President on the above subject.

I have been directed by His Excellency to refute your claim that my reply dated 5th February 1993, sent to you on His Excellency's instructions contained "false and untrue statements."

His Excellency has further directed me to inform you that,

- (a). for the reasons set out in the aforesaid reply dated 5th February 1993, and
- (b). in view of the decision of the Supreme Court, referred to in the penultimate paragraph of the aforesaid reply,

your request for action by His Excellency is inappropriate and therefore cannot be acceded to.

Yours faithfully,

(K H J Wijayadasa),  
Secretary to the President

Mr Vasudeva Nanayakkara,  
Member of Parliament for  
Ratnapura District,  
143/3, Kew Road,  
Colombo 2.

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PARLIAMENT

VASUDEVA NANAYAKKARA  
MEMBER OF PARLIAMENT  
(RAMPARA D. RICH)  
14, NEW ROAD,  
COLOMBO - 2.

9th March 1993

His Excellency H. Premadasa,  
President of Sri Lanka,  
Presidential Secretariat,  
Colombo 1.

Your Excellency,

HILTON HOTEL

I refer to the letter dated 5.2.'93 forwarded to me by Your Excellency's Secretary, Mr. K.H.J. Wijayadasa, in reply to my letter of 27.1.'93 addressed to Your Excellency. I note that Your Excellency has instructed him to ascertain the facts of the case. To assist him to do so, I am enclosing a further copy of a report dated 1.9.'91 that had been prepared by my lawyers. This was also submitted to Your Excellency with my letter of 0.8.'91.

Para 2 of Your Excellency's Secretary's letter contains a false and incorrect statement. My letter addressed to Your Excellency does not say that my letters to Your Excellency have not been responded to. I had specifically referred to the correspondence which had between Your Excellency and myself and stated that my particular letter dated 17.12.'91 had not been acknowledged by Your Excellency, which fact is admitted in your Secretary's letter.

In my letter of 27.1.'93, I had urged a "proper probe" and had requested copies of the reports made on the subject by Messrs J.F.A. Soza and Shibly Aziz, which your Secretary has not forwarded to me so far. I reiterate my request as Your Excellency had relied on them.

-2....

VINAYAKA  
MUNICIPAL CORPORATION  
(MADRAS DISTRICT)  
147, NEW ROAD,

I was amazed to note in para 3(a) of Your Secretary's Letter the insensible denial of the reference to Mr. K.N.Choksy, M.P. in the Judgment of the Supreme Court. The fact that the two letters of Mr. Choksy, dated 8.8.'88 and 28.2.'90 have been filed of record in Court, which patently demonstrates that he had intended to prevent the probe of the allegations submitted by the Plaintiff, the fact that the District Judge had held that there was a prima facie case of fraud based on which he issued the injunctions, the fact that the Supreme Court unanimously affirmed the said Judgment, the fact that Mr. Choksy remained dubiously silent in the District Court and later sought to hastily intervene in the Court of Appeal to deny the right of the Plaintiff, as a shareholder, to prosecute the Case and the open reference of the Supreme Court to Mr. Choksy to the effect that he had no right of representation in the proceedings and further, the contents of page 6 para 5 of the Supreme Court Judgment, fly in the face of Mr. Wijayadasa's assertion that "he has not been referred to by name or description" etc. in the Judgment. Having not been able to file objections or answer in the District Court, Mr. Choksy had attempted to intervene in the Superior Courts to have this laudible public interest case dismissed for reasons best known to him on the basis of the Plaintiff not having a five percent minimum shareholding and wanting parts of the D.C. Order expunged.

Next, I wish to draw Your Excellency's attention to the fact that Mr. Choksy is the 7th Defendant in the Case and the Supreme Court refers to this 7th Defendant in its Judgment (PAGE 6 PARA 5) as follows :

".....The Counsel for the 7th Defendant-Respondent submitted that the right to bring a derivative action does not exist under the Sri Lankan Law. He submitted that the Companies Act of Sri Lanka is comprehensive on the rights of the shareholders. He further argued that only rights available to a shareholder are those specified in Section 210 and 211 of the Companies Act in this regard. Those rights he pointed out could only be exercised by a shareholder having a minimum of five percent of shares of the Company."

Furthermore, the Supreme Court, in its unanimous Judgment, which included the Hon. Chief Justice, upheld the Order of the District Judge and his reasonings, where, among other matters, the District Judge had observed "..... an attempt by other shareholders and parties....., and who are exercising the influence that they had gained in society..... to prevent the raising of the questions concerning the matters of the work in connection with the contracts, the prospectus ..... the significance that is shown herein is that generally the company which has to pay money would be raising questions

11/11/11  
(11/11/11)  
11/11/11

in respect of such situation and would not allow other parties to act arbitrarily..... is siphoning money out of the company and the country.... if the position that explain this is correct, then this actually is an instance of acting in fraudulent collusion....extensive loss that would be caused to the country"

I wish to ask at this stage that Your Excellency be pleased to infer who the District Judge had referred to in his Judgment as a person who has gained influence in society who had attempted to prevent the matter being examined in the light of the letters of Mr. Choksy referred to earlier and the entirety of the conduct of Mr. Choksy in this regard.

With reference to Mr. Wijayadasa's concern - vide para 3 of his letter - for specific pronouncements in the Supreme Court Judgment, my lawyers have pointed out the extracts from the said Judgment contained in the ANNEXURE hereto, which he had conveniently ignored.

Your Excellency's Secretary's letter had obviously been drafted in utter disregard of facts by a person or persons motivated by a purpose of camouflage. The draftsman had not even considered the embarrassment it would cause Your Excellency or had calculated that I would let matters rest inspite of the facts known to me about the entire matter and the treacherous role played by Mr. Choksy.

When these matters were brought up in Court, the media and <sup>by</sup> myself, Your Excellency considered that the reports made by Messrs J.F.A. Soza and Shibly Aziz were conclusive enough to reject the allegations and thus failed to initiate any investigation of this public crime. Then, Your Excellency was informed of the Judgment and the issue of interim injunction by the District Judge of Colombo, which was conclusive of there being a prima facie case of fraud and collusion against public interest by interested and influential persons. Then, Your Excellency informed me that the Japanese companies have appealed against the Order and let the matter rest. Then, I brought to Your Excellency's attention the Judgment of the Supreme Court which affirmed the findings of the District Judge and upheld the need for the continuance of the injunctions, whilst the Supreme Court quite understandably also stated - "whether the plaintiff will succeed....." etc. It is also equally understandable that the Supreme Court did not wish that the findings and comments at this interim stage be allowed to prevail upon or influence a

VAS  
MEMO  
(H... ..)  
197... ..  
CO. NO. 2,

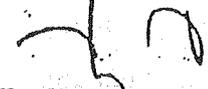
full scale trial on facts and law. This kind of emphasis was made quite necessary in view of the strong position the Supreme Court adopted in favour of the Plaintiff - Your Excellency's kind attention is drawn to the extracts of the Judgment contained in the Annexure to this letter.

My lawyers have further pointed out that the Supreme Court in unambiguous language had <sup>up</sup>held the grant of the interim injunctions, which is a clear affirmation of the view the District Court took that there was "siphoning out of money" which required to be effectively prevented.

In this era of several Presidential Commissions of Inquiry, surely, Your Excellency, should not this Hilton Hotel scandal also be inquired into by a Presidential Commission ?

Should not Your Excellency's Secretary have ascertained the facts of the Case correctly and fully as so directed by Your Excellency and have properly briefed Your Excellency without having made false and untrue statements which becomes useful to cover up the involvement and conduct of Mr. K.N. Chokey, a UNP National List M.P. ? It is more than clear even to those who refuse to see that the letter under reference has been deliberately structured to be patently evasive, avoiding the grave issues I have raised, which Your Excellency would concede, should not be swept under the carpet but should be dealt with independent of any political loyalties or considerations. I urge Your Excellency to deal with this matter accordingly. I thank Your Excellency for the encouragement given to me.

Yours faithfully,

  
VASUDEVA NANAYAKKARA, M.P.

දුරකථන } 433215  
தொலைபேசி }  
Telephones } 433926

15 JUN 1993



අලුමාතය කායතීලය  
பிரதம அமைச்சரின் அலுவலகம்  
PRIME MINISTER'S OFFICE

මගේ අංකය }  
எனது இல. }  
My Ref. }

ඔබේ අංකය }  
உமது இல. }  
Your Ref. }

150, ආර්. ඒ. ද මැල් මාවත, කොළඹ 3.  
150, ஆர். எ. த மெல் மாவத்தை, கொழும்பு 3.  
150, R. A. de Mel Mawatha, Colombo 3.

දිනය } .....June 1, 1993.....  
திகதி }  
Date }

Dear Nihal,

This is to acknowledge with thanks the receipt of your letter dated 13.05.93 conveying your felicitations and good wishes on my appointment to the office of Prime Minister of Sri Lanka.

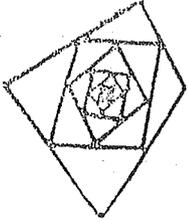
It is very kind of you to have remembered me. I need your co-operation and assistance in our effort to achieve peace, harmony and prosperity.

With kind regards,

Yours sincerely,

  
Ranil Wickremesinghe  
PRIME MINISTER

Mr Nihal Sri Ameresekere  
167/4 Sri Vipulasena Mawatha  
Colombo 10.



**COMINDTAX** MANAGEMENT SERVICE LTD.  
BUSINESS, FINANCIAL ENGINEERING & MANAGEMENT CONSULTANTS

167/4, SRI VIPULASENA MAWATHA, COLOMBO 10, SRI LANKA.

13th May '93

Hon. Ranil Wickremesinghe,  
Prime Minister,  
Prime Minister's Office,  
150, R A De Mel Mawatha,  
Colombo 3.

Dear Ranil,

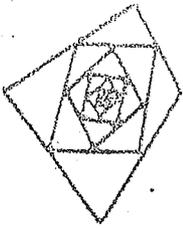
Please accept my congratulations and my best wishes for your future success.

I remember with appreciation and value the compliment you paid me in London in October '90. It is such patriotic understanding by many a right thinking persons that encouraged me to succeed.

Though in certain quarters misapprehensions have been expressed, my actions have been in the best of public interest and in the interest of the Country. A settlement is at present underway before the Hon. Attorney General.

Yours Sincerely,

Nihal Sri Ameresekere



# COMINDTAX MANAGEMENT SERVICE LTD.

BUSINESS, FINANCIAL ENGINEERING & MANAGEMENT CONSULTANTS

167/4 SRI VIPULASENA MAWATHA, COLOMBO 10, SRI LANKA.

P238

NIHAL SRI AMERESEKERE

6th July '94

BY HAND

CONFIDENTIAL

His Excellency D.B. Wijetunga,  
President of the Republic of Sri Lanka,  
Presidential Secretariat,  
Colombo 1.

Your Excellency,

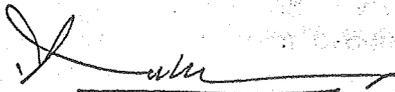
Reference the telephone conversation Your Excellency had with me, I wish to keep Your Excellency advised of the following:

- i. Mr. Jehan Cassim, Chairman, Bank of Ceylon, contacted me through my Client, Mr. Chrisantha Cooray, Chairman, Browns Group of Companies.
- ii. I wondered at that time, what Mr. Jehan Cassim's interest was in this matter and whom he represented. Knowing the circles that he had been moving in, I had certain reservations, but he did not disclose. I declined to be drawn in.
- iii. After Your Excellency spoke to me, I met Mr. Jehan Cassim once and spoke to him on the telephone on two occasions and found, confirming my suspicions, that he was primarily concerned about the position and interest of the Chairman/Managing Director, Mr. Cornel L. Perera, who should be held accountable and responsible for the state of affairs of this Government owned and controlled Company. Having examined the relevant matters, the Hon. Attorney General is aware of the full facts.
- iv. I informed Mr. Jehan Cassim that the Attorney General's Department and the Ministry of Finance, having gone into the details, had finalised Settlement Agreements, which the Hon. Attorney General is now pursuing.
- v. I have accordingly, kept the Hon. Attorney General, Mr. Tilak Marapana, P.C., informed. The Hon. Attorney General was under the impression that Mr. Jehan Cassim had an interested buyer.

- vi. It is pertinent to mention, that during 1992, our Client Brown & Co. Ltd., intimated to me that Mr. Jehan Cassim had queried, as to why they had enlisted our services to handle their debt-restructuring with the Bank of Ceylon, when, as alleged, I was persona-non-grata with the Government, in the context of the Hilton Hotel Case.
- vii. I brought the above matter then, to the attention of Mr. R. Paskaralingam, Secretary Ministry of Finance and Mr. Tilak Marapana, P.C., Hon. Attorney General, at the discussions that were being had at that time in 1992; and Mr. Paskaralingam intervened in the matter.
- viii. I am also advised that Mr. Jehan Cassim is connected to Mr. Faiz Mustapha, P.C., by the marriage of their children. Mr. Faiz Mustapha is the Counsel appearing for the Japanese Defendants in the Hilton Hotel Case.

It is best Your Excellency, that the matter be dealt with by the Hon. Attorney General and the Acting Secretary, Ministry of Finance, to be finalised between the necessary parties.

Yours respectfully,



Nihal Sri Ameresekere

ENJOINING ORDER

IN THE DISTRICT COURT OF COLOMBO

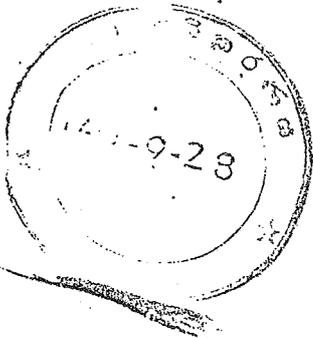
NIHAL SRI AMERESEKERE of  
No.167/4, Sri Vipulasena Mawatha,  
Colombo 10.

PLAINTIFF.

NO.3155/SPL.

- VS -

1. MITSUI AND COMPANY LIMITED, a Company organized and existing under the Laws of Japan and having the Principal Place of business at 2-1, Ohtemachi 1-Chome Chiyoda-Ku, Tokyo, Japan and having Liaison office and/or a Place of business in Sri Lanka at No.315, Vauxhall Street Colombo 02.
2. TAISEI CORPORATION, a Company organized and existing under the Laws of Japan and having the Principal place of business at 25-1, Nishi-Shinjuku 1-chome, Shinjuku ku, Tokyo, Japan and having a Liaison Office and/or Place of business in Sri Lanka at No.65, High Level Road Maharagama.
3. KANKO KIKAKU SEKKEISHA YOZO SHIBATA & ASSOCIATES, Architects & Designers, corporation duly organized under the Law of Japan and having the Principal place of business at No.9, Mori Building, 1-2-2, Atago, Minato-ku, Tokyo, Japan.
4. HOTEL DEVELOPERS (LANKA) LIMITED, formerly known as LANKA JAPAN HOTELS LIMITED, at No.16, Alfred Place, Colombo 03.



5. CORNEL LIONEL PERERA, Chairman/Managing Director, Hotel Developers (Lanka) Limited, of 16, Alfred Place, Colombo 03
6. FREDERICK GERMAIN NOEL MENDIS, Director Hotel Developers (Lanka) Limited, and c No.51/3, Dharmapala Mawatha, Colombo 03
7. KAIRSHASP HARIMAN CHOKSY, Director, Hotel Developers (Lanka) Limited, of 23/2, St Ernest de Silva Mawatha, Colombo 07.
8. DON PETER SEVERINUS PERERA, Director Hotel Developers (Lanka) Limited, c No.696/2, Havelock Road, Colombo 06.
9. KAZUTAKA KOBOI, Director of Hotel Developers (Lanka) Limited, and of 6-38 Fujimicho, Chigasaki, Kasagawa, Japan.
10. KANAPATHIPILLAI SHANMUGALINGAM, Director Hotel Developers (Lanka) Limited, and c No.4, Ramakrishna Avenue, Colombo 06.
11. KOJI ITO, Director of Hotel Developer (Lanka) Limited, and presently of No.315 Vauxhall Street, Colombo 02.

DEFENDANTS.

TO:

THE 1ST DEFENDANT ABOVENAMED

WHEREAS the Plaintiff abovenamed has made application for Interim Injunctions as prayed for in prayers (g) and (h) of the Plaint dated 13th September 1990, a copy of which is annexed hereto together with the Copies of the Affidavit of the Plaintiff dated 12th September 1990 and documents marked "P1" to "P54" filed with the Plaint.

AND WHEREAS this matter coming up before P. WIJAYARATNE, ESQUIRE, District Judge of Colombo on the 17th and 18th day of September 1990, in the presence of Mr. P. Navaratnarajah, Q.C. with Mr. K. Kanag-Isvaran, Presides Counsel, Mr. S. Sriskantha, Attorney-at-law and Mr. A.A.M. Illiyas,

3....

17/9-28

Attorney-at-law, instructed by Messrs. De Silva & Perera, Attorneys-at-law on the part of the Plaintiff and having considered the said Plaintiff, Affidavit and documents marked 'P1' to 'P54' and heard Counsel in support, Enjoining Orders have been granted to the Plaintiff in terms of the said prayers (g) and (h) of the Plaintiff against the 1st, 2nd, 3rd and 4th Defendants.

ACCORDINGLY IT IS NOW ORDERED AND THIS COURT DOETH HEREBY ORDER that YOU THE 1ST DEFENDANT COMPANY is hereby enjoined and restrained by yourself and by your 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 plaintiff, until the Plaintiff's application for Interim Injunctions is finally determined.

YOU ARE HEREBY REQUIRED TO OBEY THIS ORDER AND ACT ACCORDINGLY. HENCE FAIL NOT UNDER THE PENALTY OF THE LAW THENCE ENSUING.

(Copies of the Plaintiff, Affidavit aforesaid and Documents marked 'P1' to 'P54' are annexed hereto ).

GIVEN UNDER my hand on this 20th day of September 1990.

DISTRICT JUDGE, COLOMBO.

Prepared by us:

Attorneys-at-law for Plaintiff.

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ලකුණින් දැනුම් දෙනු ලබන අයුරින් අංක 3155/විදේශ නඩුවේ 1 වැනි විභාගයට, වෙත නිකුත් කරන ලද නියෝගයේ (ඉංග්‍රීසි) සහය ජාතික විධිවිධාන මැටි පිටපත් සහතික කරමි.

සැසඳුවේ:- ඊ,  
S/18-307760



*[Handwritten Signature]*  
රෙජිස්ට්‍රාර්.

ENJOINING ORDER

IN THE DISTRICT COURT OF COLOMBO

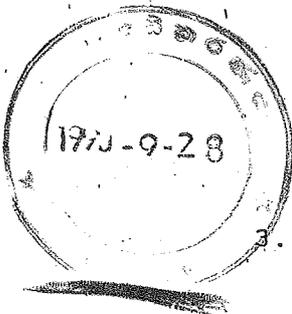
NIHAL SRI AMERESEKERE of  
No.167/4, Sri Vipulasena Mawatha,  
Colombo 10.

PLAINTIFF.

No.3155/SPL.

- VS -

1. MITSUI AND COMPANY LIMITED, a Company organized and existing under the Laws of Japan and having the Principal Place of business at 2-1, Ohtemachi 1-Chome, Chiyoda-Ku, Tokyo, Japan and having a Liaison office and/or a Place of business in Sri Lanka at No.315, Vauxhall Street, Colombo 02.
2. TAISEI CORPORATION, a Company organized and existing under the Laws of Japan and having the Principal place of business at 25-1, Nishi-Shinjuku 1-chome, Shinjuku-ku, Tokyo, Japan and having a Liaison Office and/or Place of business in Sri Lanka at No.65, High Level Road, Maharagama.
3. KANKO KIKAKU SEKKEISHA YOZO SHIBATA & ASSOCIATES, Architects & Designers, a corporation duly organized under the Laws of Japan and having the Principal place of business at No.9, Mori Building, 1-2-2, Atago, Minato-ku, Tokyo, Japan.
4. HOTEL DEVELOPERS (LANKA) LIMITED, formerly known as LANKA JAPAN HOTELS LIMITED, and of No.16, Alfred Place, Colombo 03.



- 2
5. CORNEL LIONEL PERERA, Chairman/Managing Director, Hotel Developers (Lanka) Limited, of 16, Alfred Place, Colombo 03.
  6. FREDERICK GERMAIN NOEL MENDIS, Director, Hotel Developers (Lanka) Limited, and of No.51/3, Dharmapala Mawatha, Colombo 03.
  7. KAIRSHASP HARIMAN CHOKSY, Director, Hotel Developers (Lanka) Limited, of 23/2, Sir Ernest de Silva Mawatha, Colombo 07.
  8. DON PETER SEVERINUS PERERA, Director, Hotel Developers (Lanka) Limited, of No.696/2, Havelock Road, Colombo 06.
  9. KAZUTAKA KOBOI, Director of Hotel Developers (Lanka) Limited, and of 6-38, Fujimicho, Chigasaki, Kasagawa, Japan.
  10. KANAPATHIPILLAI SHANMUGALINGAM, Director, Hotel Developers (Lanka) Limited, and of No.4, Ramakrishna Avenue, Colombo 06.
  11. KOJI ITO, Director of Hotel Developers (Lanka) Limited, and presently of No.315, Vauxhall Street, Colombo 02.



DEFENDANTS.

TO:

THE 2ND DEFENDANT ABOVENAMED

WHEREAS the Plaintiff abovenamed has made application for Interim Injunctions as prayed for in prayers (g) and (h) of the Plaint dated 13th September 1990, a copy of which is annexed hereto together with the Copies of the Affidavit of the Plaintiff dated 12th September 1990 and documents marked 'P1' to 'P54' filed with the Plaint.

AND WHEREAS this matter coming up before P. WIJAYARATNE, ESQUIRE, District Judge of Colombo on the 17th and 18th day of September 1990, in the presence of Mr. P. Navaratnarajah, Q.C. with Mr. K. Kanag-Isvaran, President Counsel, Mr. S. Sriskantha, Attorney-at-law and Mr. A.A.M. Illiyas,

Attorney-at-law, instructed by Messrs. De Silva & Perera, Attorneys-at-law on the part of the Plaintiff and having considered the said Plaintiff, Affidavit and documents marked "P1" to "P54" and heard Counsel in support, Enjoining Orders have been granted to the Plaintiff in terms of the said prayers (g) and (h) of the Plaintiff against the 1st, 2nd, 3rd and 4th Defendants.

ACCORDINGLY IT IS NOW ORDERED AND THIS COURT DOETH HEREBY ORDER that YOU THE 2ND DEFENDANT COMPANY is hereby enjoined and restrained by yourself and by your 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 Plaintiff's application for Interim Injunctions is finally determined.

YOU ARE HEREBY REQUIRED TO OBEY THIS ORDER AND ACT ACCORDINGLY. HENCE FAIL NOT UNDER THE PENALTY OF THE LAW THENCE ENSUING.

(Copies of the Plaintiff, Affidavit aforesaid and Documents marked "P1" to "P54" are annexed hereto ).

GIVEN UNDER my hand on this 20th day of September 1990.

DISTRICT JUDGE, COLOMBO.

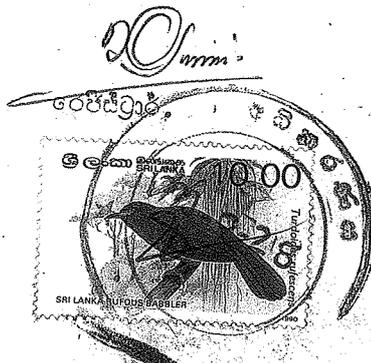
Prepared by us:

Attorneys-at-law for Plaintiff.

ඉහතින් දැන්වෙන්නේ නොලඹ දියා අධිකරණයේ අංක. 3155/ විශේෂ නඩුවේ 2. වැනි විනිශ්චාර චෙත නිකුත් කළ වාරණ නියෝගයේ (ඉංග්‍රීසි) සහ ජායා විවෘත බැව් ලෙසින් සහතික කරමි.

සැපයුවේ:-

S/30760



ENJOINING ORDER

IN THE DISTRICT COURT OF COLOMBO

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

PLAINTIFF.

NO.3155/SPL.

- VS -

1. MITSUI AND COMPANY LIMITED, a Company organized and existing under the Laws of Japan and having the Principal Place of business at 2-1, Ohtemachi 1-Chome, Chiyoda-Ku, Tokyo, Japan and having a Liaison office and/or a Place of business in Sri Lanka at No.315, Vauxhall Street, Colombo 02.
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5. CORNEL LIONEL PERERA, Chairman/Managing Director, Hotel Developers (Lanka) Limited, of 16, Alfred Place, Colombo 03.
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11. KOJI ITO, Director of Hotel Developers (Lanka) Limited, and presently of No.315, Vauxhall Street, Colombo 02.

DEFENDANTS.

TO:

THE 3RD DEFENDANT ABOVE NAMED

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3....

Attorney-at-law, instructed by Messrs. De Silva & Perera, Attorneys-at-law on the part of the Plaintiff and having considered the said Plaintiff, Affidavit and documents marked 'P1' to 'P54' and heard Counsel in support, Enjoining Orders have been granted to the Plaintiff in terms of the said prayers (g) and (h) of the Plaintiff against the 1st, 2nd, 3rd and 4th Defendants.

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(Copies of the Plaintiff, Affidavit aforesaid and Documents marked 'P1' to 'P54' are annexed hereto ).

GIVEN UNDER my hand on this 20th day of September 1990.

DISTRICT JUDGE, COLOMBO.

Prepared by us:

Attorneys-at-law for Plaintiff.

දුගිති දැන්වෙන්නේ නොලබා දිසා අධිකරණයේ අංක. 3155/විශේෂ, නඩුවේ 3 වැනි වින්දිතයා වෙත නිකුත් කළ වාරණ නියෝගයේ (ඉංග්‍රීසි) සත්‍ය ජායා විවෘත බැව් ලෙසින් සහතික කරමි.

සැසඳුවේ:- ඉ

8/3077  
S/18-307760



ENJOINING ORDER

IN THE DISTRICT COURT OF COLOMBO

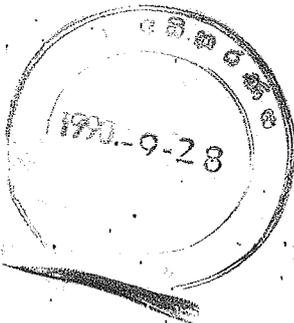
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Colombo 10.

PLAINTIFF.

NO. 3155/SPL.

- VS -

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7. KAIRSHASP NARIMAN CHOKSY, Director, Hotel Developers (Lanka) Limited, of 23/2, Sir Ernest de Silva Mawatha, Colombo 07.
8. DON PETER SEVERINUS PERERA, Director, Hotel Developers (Lanka) Limited, of No.696/2, Havelock Road, Colombo 06.
9. KAZUTAKA KOBOI, Director of Hotel Developers (Lanka) Limited, and of 6-38, Fujimicho, Chigasaki, Kasagawa, Japan.
10. KANAPATHIPILLAI SHANMUGALINGAM, Director, Hotel Developers (Lanka) Limited, and of No.4, Ramakrishna Avenue, Colombo 06.
11. KOJI ITO, Director of Hotel Developers (Lanka) Limited, and presently of No.315, Vauxhall street, Colombo 02.

DEFENDANTS.

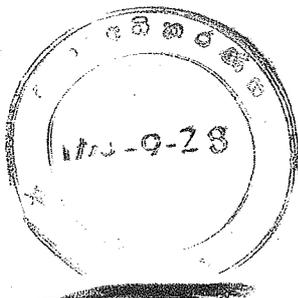
TO:

THE 4TH DEFENDANT ABOVENAMED

WHEREAS the Plaintiff abovenamed has made application for Interim Injunctions as prayed for in prayers (g) and (h) of the Plaint dated 13th September 1990, a copy of which is annexed hereto together with the Copies of the Affidavit of the Plaintiff dated 12th September 1990 and documents marked 'P1' to 'P54' filed with the Plaint.

AND WHEREAS this matter coming up before P. WIJAYARATNE, ESQUIRE, District Judge of Colombo on the 17th and 18th day of September 1990, in the presence of Mr. P. Navaratnarajah, Q.C. with Mr. K. Kanag-Iswaran, President's Counsel, Mr. S. Sriskantha, Attorney-at-law and Mr. A.A.M. Illiyas, Attorney-at-law, instructed by Messrs. De Silva & Perera, Attorneys-at-law on the part of the Plaintiff and having considered the said Plaint, Affidavit and documents marked 'P1' to 'P54' and heard Counsel in support, Enjoining Orders have

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been granted to the Plaintiff in terms of the said prayers (g) and (h) of the  
Plaint against the 1st, 2nd, 3rd and 4th Defendants.

ACCORDINGLY IT IS NOW ORDERED AND THIS COURT DOETH HEREBY ORDER  
that YOU the 4TH DEFENDANT COMPANY is hereby enjoined and restrained by yourself  
and by your 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 Plaintiff's  
application for Interim Injunctions is finally determined.

YOU ARE HEREBY REQUIRED TO OBEY THIS ORDER AND ACT ACCORDINGLY.

HENCE FAIL NOT UNDER THE PENALTY OF THE LAW THENCE ENSUING.

(Copies of the Plaint, Affidavit aforesaid and Documents marked  
"P1" to "P54" are annexed hereto).

GIVEN UNDER my hand on this 20th day of September 1990.

DISTRICT JUDGE, COLOMBO.

Prepared by us:

Attorneys-at-law for Plaintiff.

ඉහතින් දැන්වෙ නිතේ කොළඹ දිසා අධිකරණයේ අංක. 3155/විශේෂ දරණ  
නඩුවේ, 4 වැනි විත්තිකරු වෙත නතුන් කළ වා රණ නියෝගයේ (ඉංග්‍රීසි) සත්‍ය ඡායා පිටපතක් ඔවු  
වෙසින් සහතික කරමි.

සැසඳුවේ:- 2

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