

IN THE DISTRICT COURT OF COLOMBO

Nihal Sri Ameresekere,
of 167/4, Sri Vipulasena Mawatha
Colombo 10.

PLAINTIFF

Case No : 19849/MR
Nature : Money Recovery
Value : Rs.300,000,000.00
Procedure : Regular

Vs

Gamini Lakshman Peiris
of "Visumpaya", Staples Street
Colombo 2 and also of
37 Kirula Place,
Colombo 5.

DEFENDANT

On this 21st day of July 1997

The Plaintiff of the Plaintiff abovenamed, appearing by J.W.D. Perera, practising under the name and style of DE SILVA & PERERA, his Attorney-at-Law, states as follows:

1. The Plaintiff and Defendant reside and the cause of action hereinafter set out arose within the jurisdiction of this Court.
2. a) The Plaintiff is a Fellow Member of the Institute of Chartered Accountants of Sri Lanka, having been a Council Member thereof, and is also a Fellow Member of the Chartered Institute of Management Accountants, U.K.
b) The Plaintiff practises as a Consultant, having also served, as Lead Consultant and Consultant/Senior Counterpart Director, respectively, on World Bank and USAID funded economic infrastructure restructuring projects of the Government of Sri Lanka and has also been an Advisor, Ministry of Finance.
3. The Defendant, a Rhodes Scholar of Oxford University and a Doctor of Philosophy has been a Professor of Law and the Vice-Chancellor of the University of Colombo and, *inter-alia*, Vice Chairman, Janasaviya Trust Fund, Member, Presidential Youth Commission, Law Commission, Securities & Exchange Commission, National Education Commission, under the former Government, with whom he was known to have been closely associated with, and is at present, a national list Member of Parliament, serving, *inter-alia*, as the Deputy Minister of Finance, Minister of Justice & Constitutional Affairs in the present government.
4. a) The Plaintiff is a shareholder of Hotel Developers (Lanka) Ltd. [HDL], the owning Company of the Colombo Hilton Hotel [Hilton].
b) Since the then Directors of HDL failed and neglected to take any action, the Plaintiff a then Director, *qua* shareholder, in September 1990 instituted a derivative action in law, D.C. Colombo Case No. 3155/Spl, in the right and on behalf of HDL, against certain Japanese companies, making Directors of HDL parties thereto as well.
c) Enjoining Orders having been issued in September 1990, in the said Action, the District Court in October 1991 issued interim injunctions, restraining payments to the said Japanese companies in respect of the construction of Hilton, *inter-alia*, observing whether persons are exercising the influence that they have gained in society, to prevent the raising of questions concerning the matters of work in connection with the contracts and the prospectus, etc., and having prevented a correct examination thereof, were attempting to effect payment of monies, and which, if is correct, would be an instance of acting in fraudulent collusion.
5. a) The said Japanese Companies appealed therefrom to the Court of Appeal where Addl. Solicitor General representing HDL, together with Counsel for K.N.Choksy P.C., M.P., Director-Defendant of HDL, appeared in support of the said appeal, without having participated in the interim injunction inquiry in the District Court, wherein a separate interim injunction had been issued against HDL, without objections thereto.
b) The said K.N. Choksy had also previously by writing dated 28th February 1990 sanctioned the full payment to the Japanese companies in respect of the construction of Hilton, notwithstanding the queries and clarifications on discrepancies raised by the Plaintiff and also had objected to an independent examination and physical verification of the building.
6. In December 1992, the Supreme Court upheld the Order of the District Court issuing the interim injunctions, in D.C. Colombo 3155/Spl observing, *inter-alia*, that the Plaintiff has a reasonable and real prospect of success, even in the light of the defences, and that there is a serious question, and *prima facie* case, and that, as the majority shareholder and guarantor, it could not entirely be a matter of indifference to the Government, and that the interim injunctions

had been granted to prevent the siphoning out of money from the company and the country.

7. a) After the institution in September 1990 of the Plaintiff's Action D.C. Colombo 3155/Spl., the Government re-constituted the Board of Directors of HDL in December 1990, increasing the Government's representation to 6 out of 11 Directors of HDL and the Plaintiff was removed as a Director.
 - b) The said K.N. Choksy resigned as a Director of HDL in June 1993 after assuming office as Minister of Constitutional Affairs and the said vacancy was filled by J. Romesh de Silva P.C., as a Director of HDL from 15th October 1993.
 - c) In August 1993, the Government re-appointed 6 new Government Directors of HDL.
 - d) The above Directors of HDL did not take any corrective action, notwithstanding the Interim Injunctions issued by the District Court and affirmed by the Supreme Court and the several written representations made by the Plaintiff in that behalf.
8. a) HDL being a listed public Company in the Colombo Stock Exchange (CSE), the conduct of its affairs also came under the purview of the Securities & Exchange Commission [SEC] and the rules and regulations promulgated by it.
 - b) The Plaintiff made several written complaints to the SEC and the CSE, under the relevant laws, rules and regulations, on the conduct of the affairs of HDL in contravention thereof, as morefully set out *inter-alia*, in a letter dated 4th August 1992. The SEC & CSE, however, failed to take any action.
 - c) The Defendant was at the relevant time a prominent member of the SEC appointed by the then Government and had failed and neglected to take any action, on the said complaints, though he had been specifically noticed thereon by the Plaintiff.
 - d) the Plaintiff having made representations, the Defendant as a then member of the SEC, was aware of the relevant matters pertaining to HDL, including matters pertaining to the actions instituted by the Plaintiff. The Defendant from August 1994 having been the Deputy Minister of Finance was also aware of what transpired in the Ministry of Finance.
9. a) In the aforesaid background, in 1992 the then Secretary Ministry of Finance, at the instance of the said Japanese companies, intervened with the Plaintiff through the Attorney General, to have discussions to reach a settlement on several matters, inclusive of monies due to the Japanese companies, which was finalised in June 1993, with write-offs of all interests from commencement upto that date and 30% of the capital claimed by the said Japanese companies, and rescheduling the balance upto to the year 2006 at 5.9% p.a. interest, which was 6.0% p.a. previously; and the Attorney General finalising Settlement Agreements.
 - b) In consideration of the immense benefits to the Government occasioned by the Plaintiff's aforesaid Action 3155/Spl, the Government agreed to cause settlements to be effected in respect of certain Actions in which the Plaintiff was impleaded, as a consequence of events arising out of the promotion of HDL/Hilton.
 - c) The Plaintiff, as a matter of law, being entitled to the re-imbusement of costs incurred in instituting and prosecuting the said derivative action in law D.C. Colombo 3155/Spl. in all its stages from the District Court to a full hearing before the Supreme Court, the Government also agreed to reimburse same, which was subsequently done upon verification and audit by the Director, Internal Audit & Investigation of the Ministry of Finance.
 - d) The Government bound itself to the aforesaid agreements by providing specific clauses in respect thereof in the Settlement Agreements. The said settlement however, could not be concluded in June 1993, mainly for the reason that the said Japanese Companies insisted on receiving Promissory Notes from the Government, for the balance unwritten-off dues from HDL, which condition was not acceptable to the Plaintiff.
10. The Settlement Agreements finalised by the then Attorney General, *inter-alia*, contained;
 - a) The following condition in relation to the inaction by the members of the SEC and the CSE; the Defendant being one such member of the SEC:

"The Government shall and will take appropriate independent actions on the conduct and actions of the Securities and Exchange Commission of Sri Lanka and/or Members of its Commission and the Colombo Stock Exchange and/or of its Directors, in relation to the representations made by Mr. Ameresekere to the said institutions on matters pertaining to HDL, which matters Mr. Ameresekere also reserves the right to pursue."

- b) The following condition in relation to the said Auditors of the HDL, who certified HDL's Annual Accounts to 31st March 1990;

"The Government shall and will have the present Auditors of HDL removed and have another firm of Auditors appointed and have the Annual Accounts of March 1990 finalised in the context of this Agreement and the settlement and withdrawal of D.C. Colombo Action No. 3231/Spl."

- c) The following condition in relation to the Directors of HDL, who had failed and neglected to take any action as warranted, as Directors of a listed public company;

"The Government shall and will have the Board of Directors of HDL restructured, to exclude those who have been, Directors of HDL as at 2nd December 1992 and thereafter upto 30th September 1994 and/or have been Defendants in the D.C. Colombo Action No. 3155/Spl., other than however, the present nominee Directors of Mitsui and Taisei."

- 11 a) Upon the present Government assuming office in September 1994, the Plaintiff was invited to be an Advisor to the Ministry of Finance by the then Secretary, Ministry of Finance, at the instance of the Minister of Finance, H.E. the President, then Prime Minister.
- b) Amongst the various matters entrusted to the Plaintiff at the Ministry of Finance, was the subject of HDL/Hilton and in October 1994 the Plaintiff was appointed, amongst others, as a Director of HDL.
- c) Thereupon, on the directions of the Minister of Finance, instructions were given by the Secretary, Ministry of Finance to the Plaintiff to have discussions before the Attorney General, with the said Japanese companies, on the basis of the Settlement Agreements that had been finalised in June 1993, with a view to concluding the settlement.
- d) Such further discussions having been had, before the Solicitor General by the Plaintiff, the said Japanese companies relented and agreed to receive Promissory Notes from HDL for the balance agreed dues from HDL, and not from the Government.
- e) In addition, the settlement terms finalised in June 1993 were further improved upon consequent to discussions had by the Plaintiff, with another year's interest effectively written-off, together with a write-off of 30% of the capital and the balance rescheduled with one year's grace upto the year 2010, at a further reduced interest rate of 5.25% p.a.
- f) Save and except for the issuance of the Promissory Notes by HDL and further improvements in the financial terms, as aforesaid, the Settlement Agreements, that were finalised by the Plaintiff and the then Attorney General in June 1993 were essentially adopted and approved by the Solicitor General, and executed by and between and among the Government, HDL, the said Japanese companies and the Plaintiff on 28th June 1995.
- g) The condition pertaining to the members of the SEC and CSE for their inaction referred to at paragraph 10 above, that personally affected the Defendant, and the other conditions referred to in the said paragraph, continued to be operative conditions in the said Settlement Agreements executed on 28th June 1995.
- 12 a) In the run up to the General Election of 1994, the People's Alliance had made the Hilton litigation instituted by the Plaintiff an election issue, on its platform on fraud and corruption, which the Defendant, himself, admitted in Parliament on 8th August 1995.
- b) In March 1995, Her Excellency the President appointed a Special Presidential Commission of Inquiry, to investigate the affairs of public bodies listed in the Schedule to the Warrant appointing same, *inter-alia*, to inquire into misuse or abuse of power, influence, interference, fraud, corruption and nepotism in relation thereto. HDL's Hilton project was also referred to it by inclusion in the said Schedule.
- c) After completing preliminary investigations and inquiries, the Special Presidential Commission in December 1995, issued show cause notices setting out several charges, on 3 Directors of HDL, and one other, to show cause as to why they should not be found guilty of misuse or abuse of power and/or corruption and/or commission of fraudulent acts.
13. a) The discussions and negotiations had to reach the settlement, immensely beneficial to HDL, the government and the country, were essentially handled by the Plaintiff as aforesaid.
- b) The settlement concluded on 28th June 1995 resulted in a write-off of Jap. Yen. 13,476 Mn. [SL Rs. 7,816 Mn.] by way of interest, and a write-off of Jap. Yen. 4,110 Mn. [SL Rs. 2,384 Mn.] by way of 30% capital, making a total write-off of Jap. Yen. 17,586 [SL Rs. 10,200 Mn.]

- c) The said total write-off amounted to 63.3% on the total claims of Jap.Yen. 27,793 Mn. [SL Rs. 16,120 Mn.] made by the said Japanese Companies, including penal interest to June 1995, and a 55.4% write-off excluding such penal interest.
 - d) A sum of Jap. Yen. 2,312 Mn. [SL Rs. 1,341 Mn.] accumulated with interest in the hands of HDL, as a consequence of the said interim injunctions, were deducted against the balance unwritten-off capital, and the balance of Jap. Yen. 7,834 Mn. [SL Rs. 4,544 Mn.], amounting to 28.2% of the original total claims made, was rescheduled with one year's grace, over a 15-year period upto the year 2010 [originally fully payable by 1999], at a reduced rate of interest of 5.25% p.a.
 - e) The said enormous write-offs and terms of settlement, immensely beneficial to HDL, the Government and the country, were achieved by the sole and sustained efforts of the Plaintiff over a period of six years, which is a matter of public domain.
14. Such sustained efforts by the Plaintiff incurring costs over several years would not have been necessitated,
- a) had the Directors of HDL at the relevant time, from 1990 upto 1994, taken proper actions upon disclosures before the Board, or before or even after the issuance of the interim injunctions in 1991 and the Supreme Court judgment in 1992,
 - b) had the Auditors of HDL given a disclaimer and refrained from certifying the Annual Accounts of HDL in November 1990, as they ought to have, under circumstances disclosed and known previously;
 - c) had the Defendant and his fellow members of the SEC, taken due, proper and timely action under the relevant and applicable statutory provisions, on complaints made to them as far back as 1991;
 - d) had the Government, being the major shareholder and guarantor taken prompt and effective action, in the circumstances then revealed/disclosed.
15. a) Upon the said Settlement Agreements being executed on 28th June 1995, the Defendant convened and arranged for a Conference to be held on 30th June 1995 at the Ministry of Finance to announce to the public through the media the said settlement and requested the Plaintiff also to be present, knowing that it was the Plaintiff, who had handled and concluded the settlement.
- b) The said Conference, so convened, to which the Defendant also invited the Foreign Minister, Minister of Tourism, the Japanese Ambassador, and the then Secretary, Ministry of Finance, was chaired by the Defendant,
 - c) At the said Conference, which was covered by the press and the electronic media, taking kudos for the settlement the Defendant elatedly announced to the public, *"Today is a happy day. We have reached a settlement in the Hilton Hotel dispute."*
 - d) At the said Conference, the Defendant invited the media to seek any clarification from the Plaintiff, stating that the Plaintiff having handled the settlement was conversant with details and the Plaintiff responded to questions from the media.
16. a) At the said Conference on 30th June 1995, as reported in The Island of 1st July 1995, the Defendant spelling out the terms of settlement and drawing a parallel between the total saving of Rs 10,200 million and the government's economic development programmes, the Defendant said *"this saving is around twice the sum of the annual bread subsidy, which is around Rs. 5000 million, almost the annual Samurdhi programme in its entirety (which is around Rs. 9,100 million); five times more than the annual relief provided to farmers by exempting their agricultural loans in certain areas, which is around Rs. 1800 million and around six times more than the annual budget of the National Teachers Service, which is around Rs.1500 million."*
- b) The Defendant further stated thereat, *"The settlement signed with the Japanese contractors also conforms to the major planks of the People's Alliance government's election manifesto of combating the pillage and plunder of national resources and the government's commitment, which has brought about the large scale saving. However, this settlement has nothing to do with the punitive action, which the legal machinery will take against the offenders, by the Special Presidential Commission on Bribery and Corruption."*
 - c) The Defendant went on to further state, *"Today marks a happy day for the government of Japan and Sri Lanka following the signing of the dispute settlement agreement which was a constant irritant, which may have marred the otherwise healthy and strong relations which Japan and Sri Lanka enjoyed over the years. We have also preserved the good names of the two Japanese Companies - Mitsui and Taisei. This settlement was also possible due to the*

unstinted co-operation of the Japanese Ambassador in Sri Lanka Yasuo Naguchi and his predecessor Masaki Kuniyasu."

- d) The Dinamina of 1st July 1995 reported that the Defendant, *inter-alia*, stated that discussions were had with the Japanese to reach this settlement and that the settlement Agreements had been finalised by the Attorney General.
- e) The Defendant at all material times as Deputy Minister of Finance was fully aware of the singular efforts of the Plaintiff that brought about the aforesaid settlement.

True copies of the said Newspaper reports referred to above are annexed hereto marked 'A1a' and 'A1b' and pleaded as part and parcel hereof.

- 17. a) *Some three weeks after the said public conference, in a remarkable turnabout, the Defendant precipitated a baseless controversy and caused, without any legal basis, whatsoever, the suspension of the said Settlement Agreements in toto, that had been legally and contractually executed, by and between the Government, HDL, the said Japanese companies and the Plaintiff.*
- b) The Defendant also directed the Secretary Ministry of Finance to send letters dated 24th July 1995 to the said Japanese companies, informing them that the Settlement Agreements will not be implemented until the determination on the Hilton contracts by the Special Presidential Commission of Inquiry.

True copies of the said letters dated 24th July 1995 are annexed hereto marked 'A2a and 'A2b' and pleaded as part and parcel hereof.

- c) The Defendant on the same day announced to the public the suspension of the implementation of the said Settlement Agreements, which was reported in the Daily News of 25th July 1995, as follows:

A true copy of the said Newspaper report is annexed hereto marked 'A3' and pleaded as part and parcel hereof.

- 18. The Plaintiff states that the Defendant's aforesaid statement is malicious and contains falsehoods and is published of and concerning the Plaintiff and were understood and were meant to be understood to refer to the Plaintiff, and is defamatory of the Plaintiff, *per se* and also by innuendo, in that,

- (a) the general public was at all material times aware in the circumstances morefully pleaded hereinbefore, that it was the Plaintiff, who was by reason of his sole efforts, instrumental,
 - (i) in injunctioning payments to Mitsui and Taisei by instituting D C Colombo 3155/Spl;
 - (ii) exposing in the pleadings filed in the said action, events which came to be described, in the media and by the public as, "The Hilton Fraud" and was used as one of the major planks of propaganda by the Peoples Alliance in the run up to the General Elections of 1994 and, *inter alia*, to the setting up of the Special Presidential Commission aforesaid;
 - (iii) upon invitation by the Secretary, Ministry of Finance of the previous Government in 1992, in spearheading discussions to reach a settlement with the said Japanese companies as pleaded hereinbefore;
 - (iv) upon invitation by the present Government and upon acceptance of office as an Advisor to the Ministry of Finance, resuming on behalf of the present Government, the settlement discussions with the said Japanese companies as pleaded hereinbefore; and
 - (v) in bringing about the settlement morefully referred to hereinbefore.
- (b) by the words contained in the statement made to the public by the Defendant and reported as aforesaid, the Defendant meant and was understood to mean that,
 - (i) the settlement effected by the Plaintiff lacked transparency and was underhand;
 - (ii) the conduct of the Plaintiff had irrevocably compromised the Government's commitment to deep and unequivocal transparency;
 - (iii) the negotiations were conducted by the Plaintiff on his own with Mitsui and Taisei and that the Minister of Finance and the Deputy Minister of Finance were both directly and indirectly completely in the dark viz-a-viz the settlement and washed their hands off the matter;
 - (iv) the Plaintiff, in effecting the settlement, had misused or abused his office as Advisor to

the Ministry of Finance;

- (v) variety of questions had been raised about the settlement concluded by the Plaintiff, which called for examination by the Special Presidential Commission on fraud and corruption;
 - (vi) several issues needed to be fully examined before the settlement concluded by the Plaintiff could be given effect to;
 - (vii) with immediate effect, no payment will be made pursuant to the settlement concluded by the Plaintiff, nor would any aspect of the settlement be implemented;
 - (viii) the Plaintiff had conducted the settlement negotiations secretly and for personal gain and that it was being examined judicially and/or required to be examined for misuse and/or abuse of power and/or for fraud and/or for corruption.
19. a) The Plaintiff states that by reason of the premises, the Plaintiff has been injured in his credit and reputation and has been brought into public scandal, odium and contempt.
- b) Further, the Defendant published the said words out of malevolence and/or spite towards the Plaintiff.
20. a) On 8th August 1995, in answer to a question raised on the very previous day, the Defendant made a lengthy statement in Parliament, which was reported *inter-alia* in the Daily News and Island Newspapers of 9th August 1995, that the settlement was suspended, as it had committed the Government to a number of unacceptable obligations, citing only one such alleged obligation, relating specifically to the Plaintiff, that too, quoting out of context, only the middle part of a paragraph, knowingly, intentionally and willfully, leaving out the first part and the latter part thereof, deliberately and calculatedly to convey a wrongful image gravely prejudicial and damaging to the Plaintiff.

True Copies of the said Newspaper reports and the said paragraph in the Settlement Agreements in its entirety are annexed hereto marked 'A4a, 'A4b' and 'A5' respectively with the part that was quoted out of context, shown underlined and marked 'A5a' and pleaded as part and parcel hereof. The Document 'A5', which is an Annexure to the Agreement No.3 between the government & the Plaintiff, is also an Annexure to Agreement No.4 between HDL, the said Japanese companies & the Plaintiff, which is annexed hereto marked 'A5b' and is pleaded as part and parcel hereof

- b) The Defendant did not disclose, what the other alleged unacceptable obligations were, whilst suppressing the fact, that one of the conditions in the said Settlement Agreements affected him personally and as such, that he was very much an affected and interested party.
- c) The Defendant in very categorical terms admitted and held out in the said statement, that it was he, who had intervened and caused the suspension of the implementation of the said Settlement Agreements.
21. Subsequent to a further question in Parliament, the Defendant replied on 19th September 1995, which was also reported in the Daily News and Island Newspapers of 20th September 1995, deliberately and calculatedly conveying a wrongful image gravely prejudicial and damaging to the Plaintiff, discarding the official answer dated 18th September 1995, that had been prepared on the instructions of the Minister of Finance by the then Secretary, Ministry of Finance setting out the correct facts, in conformity with normal convention, practice and procedure and forwarded to the Defendant, through the Minister of Finance.

True Copies of the said Newspaper reports and the said official answer dated 18th September 1995 prepared by the Secretary Ministry of Finance are annexed hereto marked 'A6a', 'A6b' and 'A7' respectively and pleaded as part and parcel hereof.

22. On 15th December 1995, in Parliament, Dr. Rajitha Senaratne M.P. made a comprehensive statement disclosing the true and correct facts in relation to the aforesaid statements made by the Defendant on 8th August 1995 and 19th September 1995, giving the lie thereto. The Defendant without controverting, on 19th December 1995 merely stated, "Dr. Rajitha Senaratne launched an attack on my own personal integrity. I do not propose to dignify that attack by means of a response." Other questions raised in Parliament from the Defendant were also left unanswered by the Defendant.

A true copy of the said statement made by Dr. Rajitha Senaratne on 15th December 1995 is annexed hereto marked 'A8' and pleaded as part and parcel hereof

23. a) On the contrary, and in sharp contrast to the conduct above referred to, on 19th December 1995 in Parliament, the Defendant stoutly endeavoured to defend the Auditors of HDL, M/s Ford, Rhodes, Thornton & Co., on their role in auditing HDL's accounts, notwithstanding the disclosures in D C Colombo 3155/Spl and the Enjoining Orders issued

and current, the said Auditors, having in November 1990, disregarding the Plaintiff's objections thereto, signed/certified HDL's Annual Accounts for the year ended 31st March 1990 and having failed and neglected to carry out certain examinations and reporting, that had been specifically required of them by HDL, at the Plaintiff's instance, prior to such certification.

- b) In the circumstances the Plaintiff was compelled to institute in January 1991 a further action, D.C. Colombo Case No. 3231/Spl, in the right and on behalf of HDL to have the adoption of the said audited Annual Accounts for the year ended 31st March 1990 enjoined and the Court issued same.
- c) As a member of the SEC the Defendant was fully aware of these facts.
- d) In February 1994, in the said D.C. Colombo 3231/Spl, the District Court issued notices on the Partners of M/s Ford, Rhodes, Thornton & Co., Auditors of HDL, to show cause, as to why they should not be added as Defendants.
- e) One of the charges in the show cause notice issued by the Special Presidential Commission on Directors of HDL, referred to at paragraph 12 above, is,

"Disregard the discrepancies, shortcomings and irregularities which were brought to the notice of the Board of Directors, and wrongfully attempt to approve as authentic the Annual Accounts of the said Company, for the year ended 31st March 1990 and endeavour to take action to adopt the accounts with the object of suppressing the aforesaid fraudulent acts and omissions."

- 24. a) In 1996, Her Excellency the President directed the Secretary Ministry of Finance, to implement the said Settlement Agreements concluded by the Plaintiff.
- b) An Addendum finalised by the Attorney General was executed by and between the government, the said Japanese companies and the Plaintiff to make adequate safeguard to protect the interests of the government and to ensure the implementation of the conditions precedent.
- c) *At the behest of the Secretary Ministry of Finance and the Attorney General, the only condition that was excluded from the said Settlement Agreements, as stipulated by the Addendum, was the condition pertaining to the action to be taken by the government, against the members of the SEC, which included the Defendant. No other condition was required to be deleted as unacceptable to the Government.*
- d) The Ministry of Finance subsequently in October 1996 implemented the settlement concluded by the Plaintiff, with the exclusion only of the condition referred to above, which affected the Defendant. The Defendant made no public pronouncement retracting the illegal suspension caused by him as aforesaid.
- e) Suspension caused by the Defendant occasioned to HDL a loss of around Rs. 55 million by way of interest by reason of the ensuing delay to the implementation of the Settlement Agreements concluded by the Plaintiff on 28th June 1995. It also jeopardized the financial restructuring contemplated under the settlement and necessitated the government to advance monies under the state guarantees, for HDL to meet payments, that fell due on 1st July 1997, to the said Japanese Companies.

25. In this background, the Plaintiff through his Attorney-at-Law, in writing called upon the Defendant to make suitable amends for the injury and damage caused as aforesaid, but the Defendant failed and neglected to do so.

26. The Defendant having purported to act in his official capacity, the Plaintiff in conformity with Section 461 of Civil Procedure Code had also addressed a notice to the Defendant by letter dated 19th June 1997 bearing reference NSA/GLP/97-6 through the Plaintiff's Attorney-at-Law.

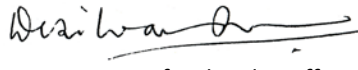
A True Copy of the said letter dated 19th June 1997 bearing reference NSA/GLP/97-6 is annexed hereto marked 'A9' and pleaded as part and parcel hereof.

27. In the premises a cause of action has arisen to the Plaintiff to sue the Defendant for damages, which the Plaintiff limits to a sum of Rs. 300,000,000.00, together with legal interest and costs of suit.

WHEREFORE the Plaintiff prays:

- (a) for judgment against the Defendant in a sum of Rs. 300,000,000.00, together with legal interest thereon from date hereof till date of decree and thereafter on the decretal amount with interest at the same rate until payment in full;
- (b) for costs, and

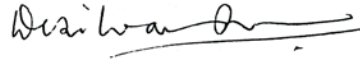
(c) for such other and further reliefs as to Your Honour's Court shall seem meet



Attorney-at-Law for the Plaintiff

Annexures to the Plaint

Document annexed marked 'A1' to 'A9'.



Attorney-at-Law for the Plaintiff