

---

**COURIER / REGISTERED POST**

1<sup>st</sup> September 2009

Mrs. Frederica Jansz,  
Editor,  
Sunday Leader,  
Leader Publications (Pvt) Ltd.,  
24, Katukurunduwatte Road,  
Ratmalana.

Dear Madam,

**SC (FR) Application No. 209/2007**

**News Reports of 23.8.2009 and 30.8.2009**

We write as instructed on behalf of our Client, Mr. Vasudeva Nanayakkara, Attorney-at-Law and Advisor to His Excellency the President, and who is the Petitioner in the Supreme Court FR Application No. 209/2007, the Judgment delivered in which, has been the subject matter of your aforesaid news reports.

Our Client himself a Lawyer, has been quite surprised to observe that in the aforesaid Articles, you have taken upon yourself to criticize the Judgment delivered on 21.7.2008, which is over a year ago. You were not a party to the said Case, and therefore are not aware of the facts adduced before Court and arguments that had taken place, upon which Judgment was unanimously delivered by a Bench of 3 Judges, presided by the former Chief Justice.

As and by way of examples, we cite below some of your criticisms and comments on the said unanimous Judgment, contained in your 2 respective reports of 23.8.2009 and 30.8.2009

**23.8.2009**

"Without the land and its associated facilities – tanks, storage, depots etc – the value of LMS is essentially nominal and Keells is at present only able to run a bunkering business using, for a fee, the facilities at the Bloemendhal terminal"

"Senior executives at JKH have alleged that the company's side of the story did not receive a fair hearing at the trial. They allege that they were given only half a day to present their case while Nanayakkara's side was given three full days".

"Now with a change of personnel at the top of the judiciary an appeal against former Chief Justice Sarath Silva's ruling seems imminent".

"However from the documentation outlined in this article which seems to indicate that the land was from the outset included in the privatization deal it seems that Sarath Silva's 2008 ruling may not be a final end to the matter".

**30.8.2009**

"Former Chief Justice Sarath Silva also ruled that the tax concessions granted to LMS by the BOI subsequent to Keells' take over were illegal".

"However that particular part of the ruling – concerning the tax exemption granted to LMS was in fact somewhat unusual as no evidence had been heard regarding the matter of the tax concession and, as a separate case specifically regarding the matter of the BOI concessions obtained by LMS was ongoing at the time".

"The matter of the tax concession had never been discussed during the proceedings of the first LMS case heard by Sarath Silva. And it was Chief Justice Silva himself who had given leave for the Case on the BOI matter to proceed in a separate Case before the Supreme Court".

"The fact that Sarath Silva therefore passed judgment on an issue that was the subject of proceedings in another Court, despite the fact that no particular evidence concerning the matter had been heard during the trial over which he presided was highly unusual. Sufficiently unusual that some sort of appeal against the ruling may now be imminent".

Your news reports reveal that you are playing a role of an alter ego and holding a brief for John Keells Holdings PLC and its Directors, acting together with whom the same have been published.

We hereby put you on notice that the said Judgment was delivered unanimously by 3 Judges of the Supreme Court, 2 of whom are sitting Judges, and 2 other sitting Judges have together with the former Chief Justice unanimously made consequential Orders, based on the said Judgment. Your news reports contain statements tantamounting to Contempt of the Supreme Court, and subjecting the Supreme Court and the said Justices to ridicule.

In addition, in the context of pending proceedings before the Supreme Court, you have been attempting to tamper with facts, and cause prejudice to the parties before the Supreme Court, and thereby interfere with judicial proceedings, which is a punishable Offence under the Constitution.

Notice is hereby given to you and those others, that warranted action will be contemplated in the Supreme Court, against you and those others, to whom this Letter is copied.

Yours faithfully,



Attorneys-at-Law

cc: Mr. Lal Wickramatunga, Chairman, Leader Publications (Pvt) Ltd.

Directors, John Keells Holdings PLC



**COURIER / REGISTERED POST**

1<sup>st</sup> September 2009

Mrs. Frederica Jansz,  
Editor,  
Sunday Leader,  
Leader Publications (Pvt) Ltd.,  
24, Katukurunduwatte Road,  
Ratmalana.

Dear Madam,

**SC (FR) Application No. 209/2007**

**Sunday Leader of August 30, 2009 - Pages 12 & 13**

We write as instructed on behalf of our Client, Mr. Nihal Sri Ameresekere, Management Consultant, 22<sup>nd</sup> Respondent in the Supreme Court SC (FR) Application No. 209/2007, and who appeared in person; and the Judgment delivered in which, has been the subject matter of your aforesaid news reports.

Consequent to your news report of 23.8.2009, our said Client addressed you the following:

1. Letter dated 24.8.2009, together with his Affidavit dated 7.9.2007, with 2 Annexes, namely, his Letter dated 1.7.2005 addressed to John Keells and his Letter dated 1.12.2006 addressed to COPE, which had been filed in the Supreme Court in the aforesaid Case.
2. Letter dated 25.8.2009 confirming that the aforesaid facts had not been contradicted in the Supreme Court by any one of the concerned parties.

Without publishing as had been requested, the said Affidavit and 2 Letters, which are not voluminous, and thus suppressing the same, you continued to mislead the public, by a further news report on 30.8.2009. Even the aforesaid Letter dated 24.8.2009 of our Client had been reproduced in a manner not decipherable.

Hence, to correct the misleading and wrong impressions caused, you are hereby required to publish the said Affidavit, (*particularly paragraphs 3,4,5,6,7,8,9 & 10 thereof, which is only 3 pages*), and 2 Letters, (*which is only about 3 pages*), revealing the correct facts to the public. Further copies of the said Affidavit and 2 Letters are attached.

Reference of a scurrilous E-mail to our Client, is an insult, in that, he had sent under his own hand the aforesaid Letters to you, and which had been simultaneously released to the media, to clear wrong impressions caused. This communication too is being so released.

Yours faithfully,



Attorneys-at-Law

cc: Mr. Lal Wickramatunga, Chairman, Leader Publications (Pvt) Ltd.