



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: MUSINGA, M'INOTI & MURGOR, J.J.A.)

CIVIL APPEAL NO. 181 OF 2013

BETWEEN

LALCHAND FULCHAND SHAH.....APPELLANT

VERSUS

INVESTMENTS & MORTGAGES

BANK LIMITED.....1ST RESPONDENT

THE COMMISSIONER OF POLICE

AND THE DIRECTOR OF CRIMINAL

INVESTIGATIONS DEPARTMENT.....2ND RESPONDENT

THE ATTORNEY GENERAL.....3RD RESPONDENT

THE DIRECTOR OF PUBLIC PROSECUTIONS.....4TH RESPONDENT

KENYA BANKERS ASSOCIATION.....5TH RESPONDENT

HARIT SHETH ADVOCATE.....6TH RESPONDENT

(Being an appeal against the judgment issued by the High Court of Kenya

at Nairobi (Majanja, J.) dated 15th April, 2013

in

Petition No. 104 of 2012)

JUDGMENT OF THE COURT

1. By a petition dated 27th March 2012, the petitioner, **Investments & Mortgages Bank Ltd** (the 1st respondent herein), sought an order to restrain the Inspector General of Police, (the 2nd respondent) and the Director of Public Prosecutions, (the 4th respondent) from carrying out any further or continued investigations and or any intended prosecutions in respect of a legal Charge dated 29th April, 1997 over **LR No. 209/66/41 (the suit property)** and any other dealings related thereto.

2. The application was supported by **Amrital Velji Chavda**, the Senior General Manager of the 1st respondent. In his affidavit, he stated that the appellants (**Lalchand Fulchand Shah**) and one **Rambhaben Lalchand Shah**, (the chargors), filed a suit, **Milimani HCCC No. 2533 of 1997**, seeking an injunction to restrain the 1st respondent from selling the suit property that was charged to the 1st respondent. The case

was dismissed on the basis that the Chargors conceded to having signed the charge documents but denied appearing before the advocate who drew the charge, **Harit Sheth**, and further that the appellant was not credible as he was found to have lied to the bank and the Registrar of Titles.

3. The appellant then proceeded to file an application for injunction before this Court, **Civil Application No. 165 of 2000**. The Court, in a ruling delivered on 7th July, 2000, dismissed the same on grounds, *inter alia*; that the applicants had gone to court with dirty hands and were therefore not entitled to any equitable relief; no irregularity was alleged against the bank and neither was any pleaded or particularized; and that the credibility of the Chargor was doubtful.

4. It was the 1st respondent's averment that sometime in January, 2012 the bank was approached by an officer from the Criminal Investigations Department (CID) pursuant to a warrant of arrest issued in **Makadara Misc. Application No. 234 of 2011** seeking to investigate the legal charge based on a complaint regarding an alleged fraudulent transaction.

5. According to the 1st respondent, their constitutional right to privacy and advocate/client privilege were breached as a result of the continuous investigations instituted against them and the same would adversely delay and affect the fair trial in the pending civil suit. In addition, it was their view that the continuous investigation was malicious, vexatious and in bad faith as the appellant's intention was to frustrate the 1st respondent from prosecuting its counterclaim and exposing it to expensive litigation.

6. In his replying affidavit, the appellant countered the 1st respondent's arguments contending that the 1st respondent went ahead and registered a controversial Charge over the suit property in 1997 without their knowledge.

7. The appellant went on to state that on 5th May, 1997, one **Mr. Raja** informed him and his wife that one of their properties had been used to secure a loan of Kshs 30 Million to Shah Motors Limited and that the said borrower had defaulted on the loan and the appellant was now required to pay the outstanding amount of Kshs. 30 Million.

8. The appellant further stated that sometime in November and December, 2011 he decided to conduct an official search on the suit property at the Lands registry, only to discover that there were a number of Charges that had been registered in favour of **ABN Amro Bank**. He then requested for a copy of the Charge from the Lands registry and realized that the said copy had a third endorsement instead of the initial two.

9. These happenings prompted the appellant to file an application for the disqualification of the 1st respondent's advocates, **Walker Kontos**, and further lodged a complaint with the CID to investigate the alleged fraudulent transactions. The 1st respondent also recorded their statement. As a result, the 1st respondent moved to the High Court and filed **Petition No. 104 of 2012** that gave rise to this appeal.

10. The High Court (**Majanja, J.**) in granting the orders sought by the 1st respondent, concluded that the continued investigation was an infringement on the petitioner's right to a fair trial as enshrined under **Article 50** of the **Constitution** and any further investigation on allegations of fraud in relation to the charge is an abuse of court process.

11. Being aggrieved by the judgment of the High Court, the appellant has moved to this Court seeking to have the judgment set aside and the 2nd and 4th respondents allowed to carry out and complete the criminal investigations against the 1st respondent in accordance with the provisions of **Article 157** of the **Constitution**.

12. In the memorandum of appeal dated 2nd August, 2013, the appellant has raised eight (8) grounds which, in a nutshell, are that the learned judge erred in; *failing to consider that the appellant's complaint arose from new and important evidence; finding that the appellant lacked credibility when there was new evidence on record; in assuming that the issues raised before him were the same as the issues previously raised in HCCC NO. 2533 of 1997 and Civil Application No. 165 of 2000; finding that the criminal process invoked by the 2nd and 4th respondents was a roundabout way of investigating a matter that was subject to a civil suit; that the criminal investigations would amount to prying into an issue that had already been decided; failing to appreciate that it is possible for a matter to invite both civil and criminal proceedings by virtue of Section 193A of the Criminal Procedure Code; finding that the investigation is an infringement of the 1st respondent's right to a fair trial and an abuse of the court process.*

13. When the appeal came up for hearing, the appellant was represented by **Mr. David Adoli**. The 1st respondent was represented by **Mr. Paul Ogunde** while the 2nd and 4th respondents were represented by **Mr. Victor Mule**. **Mr. S. Mwaniki** appeared for the 3rd respondent and the 6th respondent was represented by **Mr. S. T Wanjohi**.

There was no appearance for the 5th respondent.

14. Following directions given by the Court, written submissions and supporting authorities were duly filed and highlighted.

15. The appellant framed the issues for determination as follows:

“(a) Whether the issue of fraud in preparation and registration of the charge is subject to the proceedings in HCCC NO 2533 of 1997;

(b) Whether a subject matter can be dealt with concurrently in criminal and civil proceedings;

(c) *Whether the investigation of the 1st respondent by the 2nd respondent amounted to an infringement of the 1st respondent's right to a fair trial as enshrined under Article 50 of the Constitution;*

(d) *Whether the investigation of the 1st respondent by the 2nd respondent on allegation of fraud in relation to the legal charge is an abuse of the court process."*

16. On the issue of fraud, the appellant submitted that at the time of filing of **HCCC No. 2533 of 1997** he had not discovered the disparity between the legal charge lodged at the Lands registry in favour of the 1st respondent and the one filed in the High Court. He contended that the copy of the charge filed in the High Court was given to him by the 1st respondent shortly before filing the suit in 1997. The appellant used the copy to file the suit in the High Court. It is claimed that 1st respondent has never disowned the same. He added that the parties in the aforesaid suit depended on the said copy for over 15 years.

17. It was argued that the appellant only came to know about the fraud after he carried out an official search of the suit property and compared the charge at the Lands registry with the copy filed in court, which laid bare the disparities between the two charge documents. The initial copy had two endorsements while the latter was discovered to have three endorsements. The appellant asserted that the issue of fraud was not subject of the proceedings in the High Court.

18. As regards the issue of whether a matter can be dealt with both in civil and criminal proceedings concurrently, the appellant cited **Section 193A of the Criminal Procedure Code** and stated that the existence of the civil matter *per se* cannot be a bar to any criminal proceedings merely because the subject matter in the criminal proceedings is directly in issue or substantially in issue in the pending civil suit. The appellant pointed out that the 4th respondent had not yet instituted any criminal case against the officials of the 1st respondent and that the matter was still under investigation and was in the process of being subjected to due process before it could be certified as one warranting a trial or not.

19. In that regard, the following passage from the High Court's decision in **Republic v Attorney General & 4 others Ex-parte Kenneth Kariuki Githii [2014] eKLR** was relied upon:

"However, it is upon the ex parte applicant to satisfy the Court that the discretion given to the DPP to investigate and prosecute ought to be interfered with. Such a power ought not to be lightly invoked and it is not enough to simply inform the Court that the intended trial is bound to fail or that the complaints constitute both criminal offence as well civil liability. Nor is it enough to display to the Court the nature of the defence the applicant intends to bring forward in the criminal proceedings. The High Court ought not to interfere with the investigative or prosecutorial powers conferred upon the police or the Director of Public Prosecution unless cogent reasons are given for doing so."

Further, the learned judge was criticized for interfering with the investigations commenced by the 2nd respondent without any cogent reasons to warrant the interference.

20. It was the appellant's argument that the impugned investigations did not in any way violate the 1st respondent's right to a fair trial as enshrined under **Article 50**. He faulted the learned judge for finding that the investigations will undermine the civil case in the civil court in addition to compromising on its right to a fair hearing. He maintained that the investigations on the disparity discovered on the two charge documents ought to have been allowed to proceed to their logical conclusion.

21. In regard to the issue of whether the investigations on the allegation of fraud is an abuse of court process, the appellant contended that he lost his property through questionable exercise of a statutory power of sale by the 1st respondent and as a result this prompted him to discover some form of fraud which he duly reported to the office charged with the mandate of investigating crimes. Counsel submitted that the learned judge erred in reaching the conclusion that the appellant's action was an abuse of the court process. The appellant urged this Court to allow the appeal and set aside the High Court's judgment.

22. In opposing the appeal, the 1st respondent relied, *inter alia*, on the case of **Commissioner of Police & the Director of Criminal Investigation Department & another v Kenya Commercial Bank Ltd & 4 others [2013] eKLR** where this Court observed as follows:

"While the law (Section 193A of the Criminal Procedure Code) allows the concurrent litigation of civil and criminal proceedings arising from the same issues, and while it is the prerogative of the police to investigate crime, we reiterate that that power must be exercised responsibly, in accordance with the laws of the land and in good faith. What is it that the company was not able to do to prove its claim against the bank in the previous and present civil cases that must be done through the institution of criminal proceedings? It is not in the public interest or in the interest of the administration of justice to use criminal justice process as a pawn in civil disputes. It is unconscionable and a travesty of justice for the police to be involved in the settlement of what is purely a civil dispute being litigated in court."

23. The 1st respondent was in agreement with the appellant's contention that the High Court can interfere with investigative and prosecutorial powers of the 2nd and 4th respondents if cogent reasons are given, and according to the 1st respondent, such cogent reasons include such powers being abused to serve a collateral purpose, including interfering with civil proceedings.

24. The 1st respondent submitted that the intended investigation and or prosecution around allegations of whether there was fraud in connection with the said charge is in fact a collateral attack on views already taken by the High Court and this Court. The 1st respondent was of the view that if indeed there was new material or evidence on the issue, as the appellant purports, the proper course for the appellant would

be to have the decisions already made reviewed; or to avail that new material to court to challenge the contention that the legal charge held was invalid, and more so since the matter is still pending before High Court.

25. The 1st respondent asserted that a criminal investigation that is geared to contradict findings of a matter settled by a civil court is an abuse of that process. The 1st respondent posed the question: **“What is it that the company was not able to do to prove its claim against the bank in the previous and present civil case that must be done through the institution of criminal proceedings?”** It is the 1st respondent’s belief that there ought to be other processes of discovery and production of original documents and testimony of experts on the alleged forgery that can be called to play by the civil court which would weigh them in the context of all other issues raised. The 1st respondent prayed that this appeal be dismissed.

26. The 3rd and 4th respondents, being in support of the appeal, raised two issues for determination as follows; whether the 2nd and 4th respondent’s act of conducting an investigation into an alleged fraudulent transaction of a charge is lawful and whether such investigations are an abuse of process that infringes on the bank’s rights and fundamental freedoms.

27. They faulted the learned judge for finding that the 2nd and 4th respondents were precluded from conducting criminal investigations on an issue that was the subject of a civil suit. It was submitted that the 1st respondent had not satisfied the threshold to warrant the court to interfere with the mandate of the 2nd and 4th respondents. The 3rd respondent cited **Gordon Ngatia Muriuki v DPP & 2 Others [2017] eKLR** in support of their contention. In that case, the court identified instances when a court can issue a stay or freeze proceedings of a court of law exercising criminal jurisdiction in instances where there are trumped up charges or where the prosecution is not undertaken according to the law, or where it is shown that the criminal proceedings are actuated by malice and meant to harass a party; or where the proceedings have no basis in law or in fact.

28. It was opined that the 1st respondent’s intention was to restrain the 2nd and 4th respondents from exercising their statutory mandate of investigating crime, apprehending offenders and prosecution respectively.

29. Finally, it was submitted that there exists constitutional and statutory safeguards to protect the rights of the 1st respondent pending completion and outcome of the investigations by the 2nd respondent; that **Article 244(c)** of the Constitution enjoins the **National Police Service** to comply with constitutional standards of human rights and fundamental freedoms while **Section 6(b)** of the **Office of the Director of Public Prosecutions Act** provides that **“the Director shall not be under the direction or control of any person or authority in the exercise of his or her powers or functions under the Constitution.”** Counsel prayed the appeal be allowed.

30. The 6th respondent, Mr. Harit Sheth, also opposed the appeal. It was submitted by his counsel, **Mr. Wanjohi**, that the appellant had not explained why it took him fifteen years to conduct a search which would have disclosed the alleged disparity. He faulted the appellant for failing to exercise reasonable diligence. The 6th respondent maintained that both the High Court and the Court of Appeal dealt extensively with the issue of validity of the charge in issue and found it to be valid. The issue was therefore *res judicata*. In support of that submission, counsel relied on **Yat Tung Investment Co. Ltd v Heng Bank & Another [1975] AC.** and **Pop- In (Kenya) Limited & 3 Others v Habib Bank AG Zurich [1990] eKLR.**

31. The 6th respondent submitted that the appellant ought to have brought his whole case forward at the time when the suit was before the courts earlier. He reiterated that the issues raised were whether the investigations infringed on the 1st respondent’s rights and whether it was an abuse of the court’s process.

32. Counsel maintained that the investigations were being used for collateral purpose of assisting the appellant in resolving a civil dispute and therefore amounted to an infringement on the fundamental rights of the 1st respondent’s fair trial. He submitted that the appeal does not have merit and ought to be dismissed with costs.

33. We have carefully perused the record of appeal as well as the submissions and authorities filed by the parties. The 1st respondent’s application before the High Court was for an order to restrain the Inspector General of Police, as well as the Director of Criminal Investigations from commencing, sustaining or proceeding with any investigations against them in connection with an alleged criminal conduct of its officers on account of a charge instrument whose execution is the subject of contention in a pending civil suit, **HCCC No. 2533 of 1997.**

34. The orders sought, having been granted, the role of this Court as the first appellate Court is to re-evaluate the evidence that was advanced by both parties before the High Court and come to our own conclusion as to whether the grant of the orders was justified in law. If it is satisfied that the judge in exercising his discretion misdirected himself in some matter and as a result arrived at a wrong decision, leading to injustice, then this Court is entitled to interfere with that decision. See **MBOGO & ANOTHER v SHAH [1968] E.A. 93.**

35. Having so stated, the main issue for determination is whether a court can interfere with the powers of the police to investigate an alleged crime by issuing a prohibitory order.

36. It is not in dispute that under Article 157(10) of the Constitution, the Director of Public Prosecutions (DPP), the 4th respondent herein, does not require the consent of any person or authority to investigate and or commence criminal proceedings and is not under the direction or control of any person or authority in the exercise of his constitutional powers or functions. The DPP is only subject to the Constitution and the law.

37. However, in exercising his powers, the DPP should have regard to public interest, the interests of administration of justice and the need to prevent and avoid abuse of the legal process. (**Article 157(11)** of the **Constitution**). In granting the impugned orders, the learned judge came to the conclusion that the continued investigation was an infringement on the 1st respondent's right to a fair trial as enshrined under **Article 50** of the **Constitution** and that any further investigation on allegations of fraud in relation to the charge amounted to an abuse of the court process.

38. The Constitution establishes the Office of the Director of Public Prosecutions and stipulates the scope of his mandate.

Article 157(6) states that:

(6) The Director of Public Prosecutions shall exercise State powers of prosecution and may-

(a) institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed."

Article 157(4) provides that:

"(4) The Director of Public Prosecutions shall have power to direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction."

Article 157(11) stipulates that:

"(11) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process."

Article 245 (4) (a) of the **Constitution** on the other hand provides that:

"245 (4) The Cabinet secretary responsible for police services may lawfully give a direction to the Inspector-General with respect to any matter of policy for the National Police Service, but no person may give a direction to the Inspector-General with respect to-

a) the investigation of any particular offence or offences."

(Emphasis supplied)

39. The appellant submitted that the decision to commence investigations against the 1st respondent was consistent with the provisions of **Article 157** of the **Constitution**, the **Office of the Director of Public Prosecutions Act No. 2 of 2013** and the **National Police Service Act No. 11A of 2011**. He intimated that powers of prosecution vests in the 2nd and 4th respondents and in the exercise of that power they are not subject to the direction and control of anybody or authority.

40. While it is trite that the respondent is not bound by recommendations made by any institution or body, being an independent constitutional office, it is only subject to control of the Court based on the principles of illegality, irrationality and procedural impropriety.

41. In the case of **STATE OF MAHARASHTRA & OTHERS v ARUN GULAB & OTHERS, Criminal Appeal No. 590 of 2007**, the Supreme Court of India stated:

"The power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases and the Court cannot be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of allegations made in the F.I.R./Complaint, unless the allegations are so patently absurd and inherently improbable so that no prudent person can ever reach such a conclusion. The extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction to the Court to act according to its whims or caprice. However, the Court, under its inherent powers, can neither intervene at an uncalled for stage nor can it soft-pedal the course of justice at a crucial stage of investigation/proceedings.

The provisions of Articles 226, 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 (hereinafter called as "Cr.P.C.") are a device to advance justice and not to frustrate it. The power of judicial review is discretionary, however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that esteem of administration of justice remains clean and pure. However, there are no limits of power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers."

42. From the above quoted passage, it is our considered view that based on the available evidence, public interest and the need to avoid abuse of the criminal justice process, the learned judge acted reasonably, fairly and rationally in arriving at his decision.

43. The appellant has not demonstrated that the learned judge exercised his discretion wrongly. We respectfully appreciate the learned judge's inference that the Court's power to interfere with the 2nd and 4th respondent's constitutional mandate in the proceedings, though in exceptional circumstances, is well founded in law. Having so observed, the learned judge went ahead to grant the orders sought because he

was satisfied that there were compelling reasons for so doing.

44. In **Selvarajan v Race Relations Board** [1976] 1 ALL ER 12 at 19, Lord Denning held that:

“...in all these cases it has been held that the investigating body is under a duty to act fairly; but that which fairness requires depends on the nature of the investigation and the consequences which it may have on the persons affected by it. The fundamental rule is that, if a person may be subjected to pains and penalties, or be exposed to prosecution or proceedings or be deprived of remedies or redress, or in some way adversely affected by the investigation and report, then he should be told the case against him and be afforded a fair opportunity of answering it. The investigating body is however the master of its own procedure...”

45. The dispute relates to a loan facility extended by the bank which was secured by the contested charge over the appellant’s suit property. Apparently, there was default on the part of the borrower in the repayment of the facility. After issuing the requisite statutory notice, the bank scheduled an auction. The appellant then petitioned the court in **Nairobi HCCC No. 2533 of 1997**, which marked the beginning of a legal battle. The bank equally petitioned for protection of its fundamental rights and freedoms, arguing, amongst others, that the summons requiring the attendance of its officers at the CID headquarters was not only prejudicial to them in view of other cases that had already been determined in the bank’s favour or pending determination before the courts, but also amounted to a violation of its rights to a fair trial guaranteed by **Article 50 (1)** of the **Constitution**.

46. In our view, under **Article 22** of the **Constitution** the 1st respondent was entitled to seek court’s protection and hence there was sufficient basis for it to move the High Court for orders of prohibition.

47. In terms of **Section 193A** of the **Criminal Procedure Code**, the fact that any matter in issue in any criminal proceedings is also directly or substantially in issue in any pending civil proceedings does not bar the commencement of criminal proceedings. However, where the criminal proceedings are oppressive, vexatious and an abuse of the court process or amounts to a breach of fundamental rights and freedoms, the High Court has the powers to intervene. But this power has to be exercised very sparingly as it is in the public interest that crime is detected and suspects brought to justice.

48. In **Commissioner of Police & the Director of Criminal Investigation Department & another v Kenya Commercial Bank Ltd & 4 others** [2013] eKLR, this Court pronounced itself regarding that issue when it observed:

“Whereas there can be no doubt that the field of investigation of criminal offences is exclusively within the domain of the police, it is too fairly well settled and needs no restatement at our hands that the aforesaid powers are designed to achieve a solitary public purpose, of inquiring into alleged crimes and, where necessary, calling upon the suspects to account before the law. That is why courts in this country have consistently held that it would be an unfortunate result for courts to interfere with the police in matters which are within their province and into which the law imposes upon them the duty of enquiry. The courts must wait for the investigations to be complete and the suspect charged.

By the same token and in terms of Article 157 (11) of the Constitution, quoted above, in exercising powers donated by the law, including the power to direct the Inspector General to investigate an allegation of criminal conduct, the DPP is enjoined, among other considerations, to have regard to the need to prevent and avoid abuse of the legal process. The court on the other hand is required to oversee that the DPP and the Inspector General undertake these functions in accordance and compliance with the law. If it comes to the attention of the court that there has been a serious abuse of power, it should, in our view, express its disapproval by stopping it, in order to secure the ends of justice, and restrain abuse of power that may lead to harassment or persecution. See Githunguri v Republic [1985] LLR 3090.

It has further been held that an oppressive or vexatious investigation is contrary to public policy and that the police in conducting criminal investigations are bound by the law and the decision to investigate a crime (or prosecute in the case of the DPP) must not be unreasonable or made in bad faith, or intended to achieve ulterior motive or used as a tool for personal score-settling or vilification. The court has inherent power to interfere with such investigation or prosecution process. See Ndarua V. R.[2002] 1EA 205. See also Kuria & 3 Others V. Attorney General [2002] 2KLR.” (Emphasis supplied)

We entirely adopt the same position in this appeal.

49. The learned judge concluded thus on page 113 of the judgment:

“The validity or otherwise of the charge is therefore an issue that is directly subject in the pending civil suit. The criminal process seeks to investigate possible fraud in connection with the charge. I agree with petitioner that this is a roundabout way of having the matter subject of the civil suit determined in another forum. The court must act swift to stop this move in its tracks particularly in light of the clear decisions that have emanated from the courts”

50. From the above observation, we respectfully agree with the High Court’s declaration that the continued investigations would be a threat to the 1st respondent’s right to a fair trial under **Article 50** of the **Constitution**.

51. Further, we are of the view that there exists other avenues of pursuing the issues the appellant wishes to raise as opposed to subjecting the 1st respondent to criminal investigations for the purposes of achieving the same result. We also note the appellant’s contradiction in his

replying affidavit, when he stated that he was informed by Mr. Raja in 1997 that there was another Charge existing, only for him to again state that he only discovered about the charge in 2012 after conducting an official search.

52. In light of the foregoing, we find that the appellant's act of lodging the complaint that led the 2nd respondent to institute investigations was an afterthought and if allowed to its conclusion, it would in fact infringe the 1st respondent's fair trial and is an abuse of court process as correctly observed by the learned judge. We therefore find no reason to disagree with the reasoning and conclusions of the learned judge. Accordingly, this appeal is hereby dismissed with costs. It is so ordered.

Dated and delivered at Nairobi this 22nd day of June, 2018.

D.K. MUSINGA

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JUDGE OF APPEAL

K. M'INOTI

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JUDGE OF APPEAL

A.K. MURGOR

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JUDGE OF APPEAL

I certify that this is a true

copy of the original.

DEPUTY REGISTRAR