IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an appeal in terms of Section 11 of the High Court of the Provinces (Special Provinces) Act No. 19 of 1990 read with Article 154P (6) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Munamalpe Gamage Dhamith Sameera,
Pussemankada, Weligodawatta,
Nawalapitiya.
PETITIONER

CA No. CA/PHC/0184/2017
CP/HC/Writ Applications No. 6/2013

v.

1. Neranjan Srimantha Senadeera,
   Commissioner of Co-operative Development and Registrar (Central Province),
   Development of Co-operative Development (Central Province),
   Ehalepola Kumarihami Mawatha,
   Bogambara,
   Kandy.

2. Nawalapitiya Multi-Purpose Co-operative Society,
   Nawalapititya.

3. K. G. Piyasena,
   Arbitrator,
   Doranegama Road, Medawala Road,
   Medawala,
   Harispattuwa.

   RESPONDENT

   AND NOW

   Munamalpe Gamage Dhamith Sameera,
   Pussemankada, Weligodawatta,
   Nawalapitiya.

   PETITIONER – APPELLANT

   v.

1. Neranjan Srimantha Senadeera,
   Commissioner of Co-operative Development and
   Registrar (Central Province),
   Development of Co-operative
   Development (Central Province),
   Ehalepola Kumarihami Mawatha,
   Bogambara,
   Kandy.

2. Nawalapitiya Multi-Purpose Co-operative
   Society,
   Nawalapititya.

3. K. G. Piyasena,
Arbitrator,
Doranegama Road, Medawala Road,
Medawala,
Harispattuwa.

RESPONDENT - RESPONDENT

BEFORE	:	M. Sampath K. B. Wijeratne J. & M. Ahsan. R. Marikar J.
COUNSEL	:	Gamini Hettiarachchi for the Appellant. Sehan Soyza, S.S.C for the Respondent.
ARGUED ON	:	Concluded through written submissions.
WRITTEN SUBMISSIONS	:	01.09.2022 (By the Appellant) 01.06.2022 (By the Respondent)
DECIDED ON	:	25.10.2024

M. Sampath K. B. Wijeratne J.

Introduction

The Petitioner-Appellant (hereinafter referred to as the 'Appellant') was employed by the 2nd Respondent, Nawalapitiya Co-operative Society Limited (hereinafter referred to as the '2nd Respondent'), as a manager of an outlet. The 1st Respondent is the Registrar and Commissioner of Co-operative Development for the Central Province (hereinafter referred to as the '1st Respondent'). The 3rd Respondent is the Arbitrator appointed by the 1st Respondent.

Factual background

A dispute arose between the Appellant and the 2nd Respondent regarding a shortage of goods and cash, including cash advances and interest, amounting to a total of Rs. 1,603,872.96. The Appellant denied any liability, and the 2nd Respondent referred the dispute to the 1st Respondent, who then forwarded it to the 3rd Respondent, the Arbitrator, (hereinafter referred to as the '3rd Respondent') appointed by the 1st Respondent. The Arbitrator issued an award under Section 59 of the Co-operative Societies Law No. 5 of 1972, holding that the Appellant must pay Rs. 1,016,916.12 to the 2nd Respondent, along with 20% interest.

The aggrieved Appellant appealed to the 1st Respondent under Article 58(3) of the Cooperative Societies Statute No. 10 of 1990 of the Central Provincial Council, as amended by the Cooperative Societies Statute (Amendment) Act No. 4 of 1993, which was published in Extraordinary Gazette No. 751 dated 22nd January 1993 (hereinafter referred to as the 'Cooperative Societies Statute of the Central Provincial Council').

The Appellant conceded that he had deposited only Rs. 500/- as the appeal deposit. As a result, the 1st Respondent, by a letter dated 22nd February 2012, requested the Appellant to supply the outstanding appeal deposit of Rs. 101,191.61 within fourteen days, by 14th March 2012. The Appellant failed to comply with this request. Consequently, the 1st Respondent dismissed the appeal by a letter dated 21st March 2012, acting under Rule No. 49(xii)(a) of the Co-operative Societies Rules, made pursuant to Section 61 of the Co-operative Societies Law No. 5 of 1972 and published in Extraordinary Gazette No. 93/5 dated 10th January 1974 (hereinafter referred to as 'the Rule'). Article 72(2) of the Cooperative Societies Statute of the Central Provincial Council stipulates that the Rules made under the Co-operative Societies Law No. 5 of 1972 remain applicable until new Rules are made under Article 61, as long as they are not inconsistent with the Central Provincial Council statute.

The Appellant states that the 1st Respondent proceeded to hear the cross-appeal filed by the 2nd Respondent regarding the same award, with the Appellant's participation. According to the Appellant, the 1st Respondent increased the Arbitrator's award by Rs. 545,241.19, raising the total amount due to Rs. 1,562,157.31. The Appellant alleged that the 1st Respondent's decision was neither just nor equitable.

The Appellant, dissatisfied with the decision of the 1st Respondent, sought a Writ of *certiorari* from the High Court of Kandy to quash the 1st Respondent's decision to dismiss the Appellant's appeal, contained in the letter dated 21st March 2012 (marked as 'අ 04' in the High Court). Additionally, the Appellant sought to quash the 1st Respondent's decision to allow the 2nd Respondent's appeal, contained in the letter dated 6th August 2012 (marked as 'අ 08' in the High Court). The Appellant also requested a Writ of *mandamus* to compel the 1st Respondent to hear the appeal submitted by the Appellant.

The learned High Court Judge of the Central Province, after considering the Appellant's Petition, the Respondents' objections, the submitted documents, and the submissions filed by both parties[1], dismissed the Appellant's Writ application in the impugned Order dated 25th October 2017.

The Appellant subsequently filed an appeal to this Court against that decision.

Analysis

I have already addressed the identical issue on the *vires* of Rule 49(xii), with the concurrence of Justice M. Ahsan R. Marikar, in the case of *Nalani Danawathi Wijethilaka v. Registrar and the Commissioner of the Cooperative Development Department of the Southern Province and two others*[2]. Therefore, I will adopt the same reasoning for this appeal.

[1] *Vide* journal entries of the High Court record.
[2] CA/PHC/0015/2021, Court of Appeal minutes dated 11.10.2024.

This is an appeal filed by the party against whom the award was issued. According to Rule 49(xii)(a), a security deposit of Rs. 50/- or 10% of the awarded sum, whichever is greater, must be made when filing an appeal. In this case, the awarded amount was Rs. 1,016,916.12, which makes 10% of that amount Rs. 101,691.61, the higher sum to be deposited. However, the Appellant only deposited Rs. 500/-, which did not satisfy the requirement of Rule 49(xii)(a). Consequently, the 1st Respondent, the Registrar and Commissioner of the Cooperative Development Department of the Central Province, dismissed the appeal under Rule 49(xii)(b) for non-compliance with Rule 49(xii)(a).

As correctly submitted by the learned Counsel for the Appellant, a right of appeal to the Registrar against an arbitrator's award is granted under Section 58(3) of the statute. However, the section itself stipulates that the appeal must be presented in accordance with the applicable rules.

Vires of Rule 49 (xii)(a)

The learned Counsel for the Petitioner, citing the Supreme Court judgment in *Sebestian Fernando v. Katana Multi-Purpose Co-operative Society Limited and Others* (hereinafter referred to as the '*Sebestian Fernando* judgment*'*), argued that the Supreme Court had declared Rule 49(xii)(a) to be *ultra vires.* Consequently, the 1st Respondent's decision to dismiss the Appellant's appeal is legally invalid.

In response, the learned State Counsel for the 1st Respondent and the learned Counsel for the 2nd Respondent argued that the observation in the *Sebestian Fernando* judgment, which stated that Rule 49(xii)(a) is *ultra vires*, is not the *ratio decidendi* of the case but rather *obiter dictum*. Therefore, no court is bound to follow the Supreme Court's remarks regarding the validity of Rule 49(xii)(a). Additionally, it was contended that, following the *Sebestian Fernando* judgment, this Court, in a series of subsequent judgments, distinguished the *Sebestian Fernando* case and reached contrary conclusions.

Sebastian Fernando's case

The relevant facts of the *Sebestian Fernando* case, as they pertain to the instant appeal, are as follows: The Appellant, an employee of a co-operative society, was accused of a shortage. The dispute was referred to an arbitrator, who found the Appellant liable. When the Appellant filed an appeal, he failed to make the required deposit under the Rule, resulting in the rejection of the appeal. Three years later, the Appellant sought to invoke the Writ jurisdiction of the Court of Appeal, but the Court dismissed the application without issuing notice to the Respondents, citing an unexplained delay. Notably, the Appellant did not challenge the validity of Rule 49(xii)(a) before the Court of Appeal, raising the issue for the first time during the appeal to the Supreme Court.

In the majority judgment of *Sebestian Fernando*, His Lordship Fernando J., with whom Bandaranayake J. concurred, made the following observations regarding Rule 49(xii)(a):

'*Thus, a serious question arises as to the vires of Rule 49 (XII)(a): that the requirement of an appeal deposit is not authorized by sections 58 (3), 61 (1) or 61(2) (y). However, as that question was not placed before the Court appeal for consideration, and as the Respondents were not heard in that Court (nor in this Court, though duly noticed) it is* ***only proper that it should be determined by that Court****, after such amendment of the petition as that Court may permit in its discretion, and after hearing the Respondents.*' (Emphasis added)

In the judgment of Kulathunga J., similar observations were made, stating:

'*Thus far it seems possible to defend the impugned rule; but the most formidable challenge to it, namely the objection to the requirement that the appellant should deposit 10% of the sum awarded or claimed has to be met. There is no provision for relaxing this requirement; in default of such payment the Registrar is enjoined by Rule 49 (XII) (b) to reject the appeal. Having regard to the language of the Rule and the subject matter under consideration it does not seem possible to exempt an appellant from the liability to pay the required appeal deposit even by the application of the maxim "lex non cogit ad impossibilia". I therefore agree with my brother Fernando, J. that this rule may discourage and even*

prevent appeals made bona fide and upon good grounds solely because an appellant does not have the means of making the required appeal deposit.

For the above reasons, I am of the view that a serious question arises as to the vires of Rule 49 (XII) (a). this question was not raised in the appellant's application to the Court of Appeal but only in this Court; leave was allowed on that ground and the question was argued without the respondents being heard. As such, ***it is only proper that a determination on that ground should be made by the Court of Appeal*** *after such amendment of the petition as that Court may permit in its discretion.*' (Emphasis added)

I recognize that the Supreme Court offered logical and well-reasoned justifications for its observation that Rule 49(xii)(a) is *ultra vires*. However, the cited excerpts suggest that the Supreme Court did not arrive at a conclusive determination regarding the validity of the Rule. Rather, the Court simply acknowledged that a significant question remains concerning the *vires* of Rule 49(xii)(a).

The effective order issued by the Supreme Court was to allow the appeal, set aside the Court of Appeal's order that refused to issue notice, and dismiss the application. It is important to note that the Supreme Court allowed the appeal not based on its observations regarding the validity of the Rule but rather on the grounds that the Court of Appeal should have issued notice to the Respondents. The Supreme Court directed the Court of Appeal to issue notice to the Respondents and to consider any amendments to the Petition. This indicates that the Supreme Court was contemplating an amendment to the Petition that would challenge the *vires* of Rule 49(xii)(a).

In the case of *W.D.M.L. Dissanayaka v. Co-operative Development Commissioner and Registrar and Four Others* (C.A.), His Lordship Janak De Silva J., while sitting in the Court of Appeal (as His Lordship then was), observed that when the *Sebestian Fernando* case was referred back to the Court of Appeal, the State provided an undertaking assuring the Court that the Registrar of Co-operative Development would accept the Petition of appeal despite the

insufficient appeal deposit. As a result of this undertaking, the Petitioner withdrew the application. Consequently, the Court of Appeal did not make any determinations regarding the validity of Rule 49(xii)(a).

The *ratio decidendi* and *obiter dictum* are key legal concepts in the doctrine of precedent. It is well established that the *ratio decidendi* of a judgment from a Superior Court is binding on all inferior Courts. This principle is known as the doctrine of *stare decisis*. His Lordship Thamodaran J. expressed this in the case of *Walkers Sons Co. (UK) Ltd. v. Gunathilake and Others*, where he observed:

'The ratio decidendi of cases decided by the Court becomes a rule for the future binding all courts which are not the courts of last resort whether it be under the same system or under a different system'.

Black's Law Dictionary defines *ratio decidendi* as follows:

'The principle or rule of law on which a court's decision is founded'

Obiter dictum is defined as follows:

'*[Latin "something said in passing"] A judicial comment made while delivering a judicial opinion, but one that is* ***unnecessary to the decision in the case*** *and therefore not precedential (although it may be considered persuasive). Often shortened to dictum or, less commonly, obiter* (emphasis added).'

In light of the facts mentioned above, it is clear that Their Lordships of the Supreme Court did not arrive at a definitive conclusion regarding the validity of Rule 49(xii)(a) and instead left that determination to the Court of Appeal, which, for the reasons outlined, did not occur. Consequently, the statements regarding the Rule's vires are clearly *obiter dictum* and are not binding on inferior courts. Nevertheless, I acknowledge that these observations carry persuasive value.

Somaratne's case

Weerakkody Pathirennehelage Somaratne of Gogodagama v. Commissioner of Co-operative Societies and Four Others (hereinafter referred to as "*Somaratne's* case") is a case in which the Supreme Court examined Rule 49(xii) prior to its

decision in *Sebastian Fernando.* The relevant facts are as follows prior: The Appellant submitted an appeal to the 5th Respondent against an award within the prescribed thirty-day period, which should have been forwarded to the 1st Respondent. However, the Appellant failed to make the required appeal deposit as stipulated by the Rule. Although the 5th Respondent was not obligated to do so, he forwarded the appeal to the 1st Respondent after the thirty-day period had elapsed. Consequently, the 1st Respondent rejected the appeal on two grounds: that it was filed out of time and that the required appeal deposit had not been made.

In *Somaratne's case*, the Supreme Court examined Rule 49(xii)(a) in conjunction with the relevant Sections 58(3) and 61(2)(y) of the Co-operative Societies Law. Unlike in *Sebestian Fernando's* case, the Court reached a clear and definitive conclusion that the Rule is *intra vires*. The following observations made by His Lordship Ismail J. (with whom Justices Wanasundera J. and Ratwatte J. concurred) unequivocally confirm this position:

'*Counsel appearing for the petitioner contended that Rule 49 (xii) (a) cannot circumscribe the right of appeal that had been granted to the petitioner in section 58 (3) of Co-operative Societies Law No. 5 of 1972. This Section reads,*

"Any party aggrieved by the award of the arbitrator or arbitrators may appeal therefrom to the Registrar with in such period and in such manner as may be prescribed by rules."

This sub-section must necessarily be read with the rule making powers granted to the appropriate Minister under Section 61, which I have already referred to. Under sub-section 61 (2)(y) the Minister is unpowered to frame rules to prescribe the forms to be used, the fees to be paid, the procedure to be observed, and all other matters connected with or incidental to the presentation, hearing and disposal of appeals under this Law or the rules made thereunder. It is clear therefore the Minister empowered to make rules prescribing the time limit of 30 days from the date of the award within period an appeal had to be filed with the registrar and also to fix the appeal deposit which under rule 49 (xii) (a) had

been fixed at Rs. 50/- or 10% of the sum awarded against the petitioner whichever sum was higher.

I am therefore of the view that Rule 49 (xii) (a) is the rule that had been framed under Section 61(2)(y) by the Minister and does not circumscribe the right of appeal granted under section 58(3) of the Law as the rule making powers of the Minister entitles the Minister in terms of the Law to prescribe forms, fees to be paid and procedure to be observed.'

Nevertheless, in *Sebestian Fernando's* case, both their Lordships Fernando J. and Kulatunga J. observed that the finding in *Somaratne's case* concerning the requirement of an appeal deposit being *intra vires* **appears to be** *obiter*.

The word 'appear' suggests that something becomes visible or noticeable, often without a clear cause. This does not convey a strong sense of certainty in the mind of a judge. Chinua Asuzu, in his work *Judicial Writing: A Benchmark for the Bench*, emphasizes that a conclusion in a judgment should express the disposition with maximum clarity and minimal ambiguity. Therefore, it is my humble opinion that Their Lordships did not arrive at a definitive finding on this matter.

In light of the analysis presented above, the conclusion is that in *Somaratne's* case, three judges of the Supreme Court determined that Rule 49(xii) is *intra vires*, and this constitutes the *ratio decidendi* of that judgment. In contrast, while both judgments in *Sebestian Fernando's* case indicated that the Rule is *ultra vires*, those statements were *obiter dicta.*

Therefore, I will adhere to the decision of the Supreme Court in *Somaratne's* case.

This appeal arises from the judgment of the High Court of Kandy, where the Appellant challenged the decision of the Commissioner of the Co-operative Development Department of the Central Province in a Writ application. The learned High Court Judge refused to issue the Writs.

Furthermore, as observed by His Lordship Janak De Silva J. sitting in the Court of Appeal (as His Lordship then was), in *Weegaswatta Dissanayaka Mudiyanselage Lokubanda Dissanayaka v. Co-operative Development and Three Others* (C.A.)[3], the *vires* of a rule made by a Minister cannot be challenged in a Provincial High Court. His Lordship concluded:

'*Rule 49 (xii)(a) was made under the Co-operative Societies Law No. 5 of 1972 by the relevant Minister of the central government. He was exercising a power given under a law in the whole country and not only within the Central Province. Hence it could not have been the subject matter of a direct attack as to its vires in the Provincial High Court of the Central Province by way of judicial review.* ***There is a general rule in the construction of Statutes that what a Court or person is prohibited from doing directly, it may not do indirectly or in a circuitous manner.*** *[Bandaranaike v. Weeraratne and others (1981) 1 Sri L.R. 10 at page 16]. Therefore, I am of the view that the vires of Rule 49 (xii) (a) is not open for collateral attack in proceedings before the Provincial High Court. This finding is sufficient to reject the argument made by the learned counsel for the Appellant on the vires of Rule 49 (xii) (a)'.*

This finding is sufficient to dismiss the argument advanced by the learned counsel for the Appellant regarding the validity of Rule 49(xii)(a).

W.S. Siripala v. The Elpitiya Multi-Purpose Co-operative Society Ltd. and Three Others (C.A.)[4] (hereinafter referred to as the *Siripala case*) is a case in which His Lordship Hector Yapa J. (with whom Upali de Z. Gunawardana J. concurred) set aside the orders of the learned High Court Judge and the Commissioner of Co-operative Development and the Registrar of Co-operative Societies, Galle, by considering the *vires* of Rule 49(xii). This case, similar to the one at hand, involved an Appellant who failed to make the required deposit in accordance

[3] C.A. case No. CA/PHC/12/2014, decided on 05.10.2018.
[4] C.A. appeal No. 8/94 (PHC).

with Rule 49(xii), resulting in the rejection of the appeal by the Commissioner/Registrar under Rule 49(xii)(b).

I observe that in the *Siripala* case, the Court did not analyse the vires of Rule 49(xii) independently but instead relied entirely on the observations made by the Supreme Court in *Sebestian Fernando's* case. The final conclusion of the Court, which states, *'**in view of the submission of the learned Counsel based on the decision of the Supreme Court referred to above**, we allow the appeal and set aside the order of the High Court dated 07.07.93 and the order of the 4th respondent dated 19.06.92. We further direct the 4th respondent to entertain the appeal against the order of the 2nd respondent dated 04.04.92 and come to a decision very early',* supports the position mentioned earlier. (Emphasis added)

As I mentioned earlier, the comment made in the *Sebestian Fernando* judgment concerning the validity of Rule 49(xii)(a) is clearly *obiter dictum*. Therefore, this Court's earlier judgment will not act as a judicial precedent for the current case.

Nonetheless, there are several cases from this Court in which the statement from the *Sebestian Fernando* judgment about the validity of Rule 49(xii)(a) was not adhered to.

In the case of *K. H. Nanadani v. Matara District Co-operative Society Ltd & three others* (C.A.)[5],His Lordship L.T.B. Dehideniya J., while sitting in the Court of Appeal, stated that although in the *Sebestian Fernando* case their Lordships discussed the *vires* of Rule 49(xii) and noted that a serious question had arisen, this issue was referred to the Court of Appeal for determination, the Supreme Court did not declare Rule 49(xii) as *ultra vires*.

In the case of *Duminda Lakunusara Bandara Udugama v. Commissioner of Co-operative Development and Registrar of Co-operative Societies and two others* (C.A.)[6], His Lordship A.L. Shiran Gooneratne J., while sitting in the Court of

[5] C.A. case No. CA/PHC/146/2004, decided in October 2016.
[6] C.A. case No. CA/PHC/200/2014, decided on 27.06.2019.

Appeal, ruled that fulfilling the requirement to deposit the amount specified in Rule 49(xii)(a) is a mandatory condition for proceeding with an appeal. Therefore, if the Appellant does not make the necessary deposit, the appeal must be dismissed.

In the case of *Dharmarathna Wasam Palliyage Sampath Manjula Nanayakkara v. Commissioner of Co-operative Development & Registrar of Co-operative Societies (Central Province)* (C.A.)[7], Her Ladyship P.R. Walgama, J., after reviewing the Appellant's arguments regarding the validity of Rule 49(xii)(a), determined that Section 61(1) of the Co-operative Societies Law No. 5 of 1972 grants the Minister the authority to make Rules. Furthermore, Section 61(2)(y) specifically allows for the establishment of rules concerning the forms, fees, procedures, and other aspects related to the presentation, hearing, and resolution of appeals. Her Ladyship concluded that the comments made in the *Sebestian Fernando* case regarding Rule 49(xii)(a) cannot be considered the *ratio decidendi* of that case. Instead, Her Ladyship opted to follow the decision in *Somaratne's* case, which affirmed that the Rule is *intra vires.*

Her Ladyship P.R. Walgama J. arrived at a similar conclusion in the latter case of *A.D. Samarasinghe Abeyawardene v. Co-operative Commissioner of Southern Province and another*[8] concerning the validity of Rule 49(xii)(a).

Principle of *stare decisis*

In light of the above analysis, I conclude that, despite the Court of Appeal's repeated assertions that the *obiter dicta* in the *Sebestian Fernando* case, which states that Rule 49(xii)(a) is *ultra vires*, and the Supreme Court's ruling in *Somaratne's* case that the Rule is *intra vires*, this issue continues to be re-examined in appeals, as illustrated in this case. Specifically, His Lordship Janak

[7] C.A. case No. CA./PHC/24/09, decided on 10.06.2016.
[8] C.A. case No. CA/PHC/20/2004, decided on 13.09.2016.

De Silva J. has thoroughly reviewed both judgments and has chosen to follow the latter, which confirms that Rule 49(xii)(a) is *intra vires.*

In this context, I believe that rearguing the same issue in appeals before this Court, without seeking proper legal channels to challenge the Rule, is an unproductive practice that drains the Court's energy and resources. Such conduct should be discouraged.

In the case of *Walker Sons & Co. (U.K.) Ltd. v. Gunathilake and Others*, Thamotheram J. noted, after reviewing the judgment of Basnakyake C.J. in *Bandahamy v Senanayake*[9], that generally, two judges sitting together may follow a prior decision made by another two-judge panel. However, when two judges are unable to agree with a decision from a similar bench, the established practice is to reserve the case for consideration by a fuller bench.

I note that while the Appellant has sought a writ of *certiorari* to annul the 1st Respondent's decision as stated in the letter dated 6th August 2012, which allowed the appeal of the 2nd Respondent (sic) ('අ 08'), and has also submitted written arguments on the matter, the learned High Court Judge has not addressed this issue or made a determination regarding it.

Conclusion

In light of the above analysis, I find that the learned High Court Judge, in his Order dated 29th January 2021, has properly examined the relevant facts, statutory provisions, and judicial precedents concerning Rule 49(xii). He has reached a just conclusion in dismissing the Appellant's application for the prerogative writ of *certiorari* to annul the 1st Respondent's decision in his letter dated 21st March 2012 ('අ 04') and the writ of *mandamus* compelling the 1st Respondent to hear the Appellant's appeal.

However, since the learned High Court Judge did not address the issues raised by the Appellant concerning the 1st Respondent's decision on the appeal of the

[9] 62 N.L.R. 313.

2nd Respondent, I affirm the part of the decision regarding the validity of Rule 49(xii). Nonetheless, I set aside the order of the learned High Court Judge dated 25th October 2017 that dismissed the writ application in its entirety, and I direct the current High Court Judge to make a determination on the writ of *certiorari* prayed in prayer (3) of the Petition.

The Registrar is directed to remit the case record to the High Court of Kandy. No costs are awarded.

JUDGE OF THE COURT OF APPEAL

M. Ahsan. R. Marikar J.

I Agree.

JUDGE OF THE COURT OF APPEAL