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

In the matter of an Appeal to the Supreme Court under and in terms of Section 5C of the High Court of the Provinces (Special Provisions) (Amendment) Act No. 54 of 2006, against the Judgment dated 21/06/2013 of the Provincial High Court of the Western Province holden in Colombo in case bearing No. HC (Civil) 90/2008/MR.

Triad Advertising (Pvt) Ltd.,
53/3, Gregory's Road,
Colombo 07.

Plaintiff

Supreme Court Case No:
SC/CHC/Appeal/48/2013
HC/CIVIL/90/2008/MR

Vs.

Attorney General,
Attorney General's Department,
Colombo 12.

Defendant

AND NOW

Attorney General,
Attorney General's Department,
Colombo 12.

Defendant-Appellant

Vs.

Triad Advertising (Pvt) Ltd.,
53/3, Gregory's Road,
Colombo 07.

Plaintiff-Respondent

Before: **Justice Murdu N.B. Fernando, PC**
Justice A.H.M.D. Nawaz
Justice A.L. Shiran Gooneratne

Counsel: Susantha Balapatabendi, PC, ASG, with R. Gooneratne, SC, for the **Defendant-Appellant.**

Jagath Wickramanayake, PC, with Migara Doss for the **Plaintiff-Respondent.**

Argued on: 07/05/2024

Decided on: 26/07/2024

A.L. Shiran Gooneratne J.

By Plaint dated 18/03/2008, Triad Advertising (Pvt) Ltd., the Plaintiff-Respondent (hereinafter sometimes referred to as ('the Plaintiff-Company') filed this Action No. Commercial High Court HC/CIVIL/90/2008/MR against the Honorable Attorney General (hereinafter referred to as 'the Defendant-Appellant') and sought to recover a sum of Rs. 4,865,313.98/- together with legal interest against the Defendant-Appellant.

The action of the Plaintiff-Company was set out in 7 causes of action and an alternative cause of action based on unjust enrichment.

In the 7 causes of action, the Plaintiff-Company pleaded that it provided particular services to the Ministry of Education and/ or the Government of Sri Lanka in relation to the compilation and printing of books titled, "Nana Dhashakayaka Subha Waruna", "Education for Economic Development and Prosperity", Investing in our Future" and "Sahasara Thaksala". According to the said Plaint dated 18/03/2008, the 1st, 2nd and 3rd causes of action accrued to the Plaintiff-Company on or about September 2005, the 4th and 5th on or about November 2005, and the 6th and 7th causes of action on or about February 2005.

The Plaintiff-Company *inter alia*, prayed;

I. for the recovery of a sum of Rs. 4,865,313.98 from the Defendant-Appellant with legal interest from the date of the institution of the action, in 1 to 7 causes of action.
II. in the alternative, for the recovery of a sum of Rs. 4,865,313.98 from the Defendant-Appellant with legal interest from the date of the institution of the action, based on unjust enrichment.

The Defendant-Appellant filed Answer dated 01/08/2008, and in paragraph 1 of the said Answer stated that, the alleged causes of action of the Plaintiff-Company are prescribed and therefore, this matter should be dismissed in limine.

In paragraph 8 of the said Answer, the Defendant-Appellant *inter alia*, stated that,

a. at no time had the Plaintiff and the Ministry of Education enter into a contract to procure the goods and services referred to in the Plaint;
b. the Ministry of Education never called for tenders in accordance with the Government Guide Lines on Tender Procedures nor was there any award made to the Plaintiff; and
c. the Ministry is not in receipt of the printed material referred to in the Plaint or that such goods and services were required to be supplied by the Plaintiff Company.

The Defendants pleaded for a dismissal of the action.

Having considered the pleadings, the evidence led in Court and the written submissions tendered by the respective parties, the learned Commercial High Court Judge, by Judgment dated 21/06/2013, held in favour of the Plaintiff-Company and awarded the reliefs prayed for in paragraphs (a), to recover a sum of Rs. 4,865,313.98 from the Defendant-Appellant with legal interest from the date of the institution of the action on all seven causes of action and paragraph (c), to recover costs.

Being aggrieved by the said Judgment of the Commercial High Court the Appellant-Defendant filed Petition dated 19/08/2013 in this Court, whereby, *inter alia*, has sought the said Judgement dated 21/06/2013 delivered by the Commercial High Court be set aside.

The Plaintiff's action before the Commercial High Court can be briefly summarized as follows;

It is in evidence that the Managing Director of the Plaintiff-Company Dilith Jayaweera, by letter dated 14/02/2007 (P16), captioned "Outstanding payments", has written to Ariyarathne Hewage, Secretary of the Ministry of Education, stating;

"With reference to the letter dated October 2, 2006 and the continue follow ups with the relevant parties' concern, we hereby inform you that we are still not in receipt of the above payment. We would very much appreciate your immediate intervention for expediting the payment without further delay."

By letter dated 27/02//2007 (P18), the said Ariyarathne Hewage, has informed Dr. Tara De Mel, the former Secretary of the said Ministry, with reference to listed invoices submitted by the Plaintiff-Company amounting to Rs. 4,952,127.48 for "activities completed during the year of 2005", that payments could not be made due to the non-availability of relevant information and supporting documents and there is no evidence found to show that the tender procedure was followed.

Responding to the said letter dated 27/02/2007, by letter dated 26/03/2007 (P19), Dr. De Mel confirmed *"that the services you mentioned in your letter were delivered* ***after the required processes were completed by the Ministry****. The relevant documentation in this regard should be available at the Ministry."* (Emphasis added)

Consequently, by letter dated 04/04//2007 (P20), with reference to letter dated 12/01/2007, Ariyarathne Hewage informed the Director General of Public Finance that, as confirmed by Dr. Tara De Mel, all printing requirements have been completed and handed over to the Ministry. By the said letter dated 04/04/2007, Hewage sought approval for the said payment. The said letter was copied to the Respondent company, and received by them on 16/04/2007.

Since the payment was not made, the Plaintiff-Company sent a letter of demand dated 05/09/2007 (P22), addressed to the said Ariyarathne Hewage, Secretary of the Ministry of Education. The Defendant-Appellant did not respond to the said letter of demand.

The Defendant-Appellant argues that the action of the Plaintiff-Company is prescribed under Section 8 of the Prescription Ordinance because it was not filed within one year from the date the debt became due. The relevant invoices in support of the 1st, 2nd and 3rd causes of action are dated 30/09/2005, the 4th and 5th causes of action are dated 30/11/2005, and the 6th cause of action is dated 24/02/2005. Given that the Plaint was filed on 18/03/2008, nearly three years after the said dates, the Defendant-Appellant argues that the action is time-barred.

It was also the contention of the Defendant-Appellant that, Section 12 of the Prescription Ordinance does not apply since document marked 'P20', could not be considered as a written acknowledgment of debt, for the reasons, that the said letter;

a) signed by the Secretary to the Ministry does not reference or infer the exact amount to be paid.
b) contains a condition requiring prior approval from the Department of Public Finance to fulfill the payment. Therefore, it does not amount to an acknowledgment.
c) written by the Secretary to the Ministry of Education, addressed to the Director General of Public Finance, and not to the plaintiff.

Section 8 of the prescription ordinance reads as follows:

"No action shall be maintainable for or in respect of any goods sold and delivered, or for any shop bill or book debt, or for work and labour done, or for the wages of artisans, laborers, or servants, unless the same shall be brought within one year after the debt shall have become due."

Section 8 of the Prescription Ordinance sets out a one-year limitation period of initiating legal action in matters, as reflected in that section. For instance, if an action in respect of goods sold and delivered is not brought within the specified period, the debt is considered prescribed and unenforceable.

Section 12 of the Prescription Ordinance states thus;

"In any of the forms of action referred to in sections 5, 6, 7, 8, 10, and 11 of this Ordinance, no ***acknowledgment or promise*** *by words only shall be deemed evidence of a new or continuing contract, whereby to take the case out of the operation of the enactments contained in the said sections, or any of them, or to deprive any party of the benefit thereof, unless such acknowledgment shall be made or contained by or in* ***some writing to be signed by the party chargeable, or by some agent duly authorized*** *to enter into such contract on his behalf..."*(emphasis added)

In terms of Section 12 of the Prescription Ordinance, a written acknowledgment signed by the party chargeable or by an agent duly authorized, can take the action out of the operation of the enactments contained in the said section, and shall be deemed as evidence of a new or continuing contract, beyond the initial limitation period.

When considering, what constitutes a written acknowledgment of debt under Section 12 of the Prescription Ordinance, Drieberg J. in ***Hoare and Co. vs. Rajaratnam***[1]**.** cited with approval the case of ***Fettes vs. Robertson***[2], where Bankes L.J. noted;

"Never to lose sight of the fact that what a plaintiff has to prove is ***a promise express or implied,*** *to pay the debt, made within six years before action, and that any consideration of an acknowledgement is merely for the purpose of seeing whether the acknowledgement is expressed in such language that an unqualified promise to pay can be* ***implied*** *from it*." (emphasis added)

A similar view was expressed by Soertsz J. in ***Perera vs. Wickremaratne***[3]

"It has frequently been laid down that when there is an acknowledgment of a debt without any words to prevent the possibility of an implication of a promise to pay it, a

[1] Hoare and Co v Rajaratnam (1932) 34 NLR 219
[2] Fettes v Robertson (1921) 37 TLR 581
[3] Perera v Wickremaratne (1942) 43 NLR 141, 142

promise to pay is inferred. Much more, then, must such a promise be inferred when the acknowledgment is coupled with an expression of desire to pay"

In essence, when an individual acknowledges their indebtedness without indicating any intention to refuse payment, the legal presumption is that they are implicitly promising to fulfill the said obligation.

Prof. C.G. Weeramantry, in ***"The Law of Contracts"***[4], has deliberated about the Prescription Ordinance, pertaining to matters of procedure, observing the close relationship between Ceylon and Indian law. He states that, historically Indian courts have strictly interpreted limitation Acts, by holding back existing rights of parties. However, a more contemporary perspective advocates that, these statutes should be interpreted according to plain meaning of their language, and "***In case of doubt, courts are required as far as possible to place upon the statute a construction favorable to the plaintiff so as to keep the cause of action alive."*** (emphasis added)

In order to reject the application of the said letter marked 'P20', the Defendant-Appellant submits that P20 does not specify the exact amount owed by the Defendant to the Plaintiff.

The Defendant-Appellant has cited the case of ***S. Albert vs. S. Sivakumar SC***[5] and relied on the following pronouncement which states;

"The acknowledgment is in writing and refers to the exact amount that the appellants are pursuing. Most significantly, it is signed by the Respondent."

It is to be noted that this particular extract of the Judgement does not state that the acknowledgment **shall** refer to the exact amount of debt for it to be valid, instead it notes that the document in question contained the exact amount and considers it as an

[4] Prof CG Weeramantry, The Law of Contracts Vol II (1999) (Chapter IV, 802)
[5] SC (CHC) Appeal No 05/2007 (SC Minutes, 23 January 2023)

acknowledgment of the debt (Emphasis added). The relevant potion of the said Judgment is cited below in its entirety for purpose of clarity-

"It is seen that the heading of P7 makes specific reference to the invoices marked P2 and P4. It is followed by an unequivocal statement that arrangements will be made to pay the outstanding balance within one year. The acknowledgment is in writing and refers to the exact amount that the Appellants are pursuing. Most significantly, it is signed by the Respondent. P7 is thus both an acknowledgement of the debt and an undertaking to pay it within one year".

The reasoning of the Court in the case cited above, was that the document in that particular case did refer to the exact amount, yet, did not make reference to an exact value of the debt to be included as a strict requirement for all acknowledgments under the law. The inclusion of the amount of debt in the said document was only to strengthen its validity as an acknowledgment of the debt, in that case.

As noted earlier, P20 is a letter written by Ariyaratne Hewage, Secretary Ministry of Education to the Director General Treasury dated 04/04/2007.

What was communicated by the said letter marked 'P20', is reproduced below-

"මාගේ සමාංක හා 2007.01.12 දිනැති ලිපියට අමතරවයි.

එම ලිපියේ සඳහන් මුද්‍රණ කටයුතු සියල්ලම අවශ්‍යතාවයන් අනුව සම්පූර්ණ කොට අමාත්‍යාංශයට භාරදී ඇති බව එවක අධ්‍යාපන ලේකම්ව සිටි වෛද්‍ය රාටා ද මෙල් මහත්මිය විසින් ද අමුණා ඇති ලිපිය මගින් සනාථ කර ඇත.

ඒ අනුව අදාළ ගෙවීම් කිරීම සඳහා අනුමැතිය ලබාදෙන්නේ නම් මැනවි."

The said letter captioned, "Bill payments for printers" makes reference to a previous letter (which is not before Court), that all printing requirements were completed and handed over to the Ministry, and seeks approval for payment. This letter is duly signed

by the Secretary, Ministry of Education and copied to the Managing Director of the Plaintiff-Company.

In this letter, it is important to note the words "***එවක අධ්‍යාපන ලේකම්ව සිටි වෛද්‍ය රාටා ද මෙල් මහත්මිය විසින් ද*** *අමුණා ඇති ලිපිය මගින් සනාථ කර ඇත."*

It noted that, apart from the signatory (the Secretary Ministry of Education), confirming the receipt of the printed material, the former Secretary Dr. Tara De Mel has also confirmed the same fact.

In terms of Section 12 of the Prescription Ordinance, there is no statutory requirement for an acknowledgement to contain the exact value of the debt or the value of the debt to be specified. The statutory requirement is simply that the acknowledgment must be in writing and signed by the party chargeable or by an agent duly authorized. Accordingly, P20, is a clear and sufficient acknowledgement of the debt, which comes within the purview of Section 12 of the Prescription Ordinance.

As held in the case of ***State of Jammu and Kashmir vs. Shital Singh Sharan Singh***[6]

"Admission of any precise amount is not necessary for bringing it within the meaning of an acknowledgement under the act. It is sufficient of the debtor admits that something is due or maybe due. Once an admission is made of subsisting amounts, there is a clear acknowledgement of liability to render accounts and to pay whatever is due"

Secondly, the Defendant-Appellant contends that the letter marked 'P20' is conditional and therefore, does not amount to a written acknowledgment of debt. The Appellant makes this argument based on the case of ***Hoare and Co. vs. Rajaratnam***[7]

In the above case, the Court looked at whether an acknowledgment of debt containing a request for additional time to pay could amount to a valid acknowledgement. In the

[6] [AIR 1956 J&K 51]
[7] (n 1)

said case, N.R. Rajaratnam having acknowledged his debt in a letter to Hoare & Co., Colombo, requested an extra two months for payment due to financial difficulties. Hoare & Co. did not grant this request and instead, demanded immediate payment. The Court *inter alia*, held that an acknowledgment with a condition such as a request for more time requires acceptance of that condition by the creditor to be a valid acknowledgement. Since Hoare & Co. did not accept the condition, the acknowledgment did not give the company that benefit.

The facts in ***Hoare & Co. vs. Rajaratnam***[8] are clearly distinguishable from the facts in the case at hand.

The letter marked 'P20' is a request for approval of payment. The position of the Department of Public Finance is that the payments cannot be completed because there are no documents to substantiate that the tender procedure was followed or that the material in question were delivered to the Ministry.

It was argued by the Defendant-Appellant that, during the tenure of the former Secretary, approval of the Department of Public Finance was not obtained by the Ministry of Education to procure services without adhering to the proper tender procedure and/ or without maintaining the relevant documentary proof.

The letter marked 'P18', written by the Secretary to the Ministry of Education addressed to the former Secretary, lists six items described as *"the following activities completed during the year of 2005"* together with the relevant payments to be made to the Plaintiff-Company. In this letter, the Secretary states that *"payment for these services could not be made due to non-availability of the relevant information and the supporting documents."* In response, the former Secretary of the Ministry, by letter dated 26/03/2007 (P19), confirms that the services mentioned were delivered after the

[8] Ibid

required processes were completed by the Ministry also states that *"the relevant documentation in this regard should be available at the Ministry."*

In her evidence before Court, the former secretary has constantly asserted her position that the Ministry of Education has no issue with the services provided by the Plaintiff Company, further claimed that their cost proposals were both submitted to and accepted by the Ministry and that the services were fully performed by the Plaintiff Company. Her testimony before Court also revealed that the Ministry compared the proposals with other competitors and selected the most suitable (the costs proposals together with the said printed material was tendered to Court by the Plaintiff-Company, marked 'P2' to 'P15', and admitted without any objection).

In ***Sampath Bank PLC vs. Kaluarachchi Sasitha Palitha***[9], Justice Murdu Fernando P.C, J. considered whether a conditional acknowledgment of debt falls within the purview of Section 12 of the Prescription Ordinance therein, also looked into the facts which led to the decision in ***Hoare and Co. vs. Rajaratnam***[10]**.**

In ***Sampath Bank PLC vs. Kaluarachchi Sasitha Palitha***[11], in answer to a question of law;

"Does a conditional acknowledgment of the debt come within the purview of Section 12 of the Prescription Ordinance?" the Court held that;

"Section 12 of the Prescription Ordinance very clearly indicates that acknowledgment should not be by words but be in writing. It does not state that the acknowledgment should be unqualified or unconditional. It only speaks of acknowledgment of a debt."

[9] [SC Appeal No 21/2017]
[10] (n 1)
[11] (n 9)

The Court further held that;

"Clearly, P5 was a letter which acknowledged a debt and came within the purview of Section 12 of the Prescription Ordinance. In the said circumstances, the High Court was in error in holding that P5 was not an acknowledgment of the debt. It is observed that the High Court did not consider nor refer to Section 12 of Prescription Ordinance in its judgement when it analyzed P5 and thus, glossed over the question of extension of the prescriptive period when an acknowledgment of the debt is foreseen".

The Court cited with approval the Court of Appeal Judgment in ***Rampala and others vs. Moosajees Ltd and another***[12]**.**

Where, a letter from the Managing Agents on behalf of the estate owner, stated; *"immediately we hear from them, we will let you know what arrangements have been made with regard to the repayment of the outstanding account,"* which was considered to be an acknowledgment of debt.

The Court also cited with approval the case of ***Perera vs. Wickremaratne***[13], where Soertsz J. in answering this precise question, 'by an acknowledgement of debt, has the plaintiff a right to recover the debt by virtue of Section 12 of the Prescription Ordinance', held,

" 'I wish to settle' is not merely an acknowledgment of the debt from which a promise to pay can be inferred but it is an acknowledgment with an express declaration of a desire to pay. It has frequently been laid down that when there is an acknowledgment of a debt, without any words to prevent the possibility of an implication of a promise to pay it, a promise to pay is inferred. Much more, then, must, such a promise be inferred when the acknowledgment is coupled with an expression of desire to pay."

[12] (1983) 2 SLR 441
[13] (1942) 43 NLR 141

The Indian case ***Shapoor Freedom Mazda vs. Durga Prasad Chamaria***[14]**,** has favored the 'liberal approach' as referred to earlier in this Judgment, in interpreting the documents to ensure that legitimate claims are not rejected due to technicalities, it observed that;

"It is often said that in deciding the question as to whether any particular writing amounts to an acknowledgement, is not very useful to refer to judicial decisions on the point. The effect of the words used in a particular document must inevitably depend upon the context in which the words are used and would always be conditioned by the tenor of the said document, and so unless words used in a given document are identical with words used in a document judicially considered, it would not serve any useful purpose to refer to judicial precedents in the matter".

It was the view of the Court that;

"If the statement is fairly clear then the intention to admit the jural relationship may be implied from it. The admission need not be express but must be made in circumstances and in words which the court can reasonably infer that the person making the admission intended to refer to a subsisting liability as at the date of the statement."

It was also submitted by the Defendant-Appellant that the documents marked 'P18' and 'P19', were correspondence between government officials, as such had the effect of an internal memo, and should not be relied upon by the Plaintiff-Company. The said documents were presented before the trial court to be construed by the trial judge. At that stage, documents P18 and P19 were admitted without any objection. In the circumstances, I find that there is no tenable argument presented to be considered by this Court, in appeal, and see no reason to deal with it any further.

[14] AIR 1961 SC 1236

I wish to place on record that the Indian courts have discussed the implications of such correspondence and determined as amounting to an acknowledgement of debt, a continued recognition of the existing debt which extends the period of limitation.

In the case of ***Indian Bank, Madras vs. State of Tamil Nadu***[15]***,*** the Indian Bank sought to recover dues from the State of Tamil Nadu. The bank provided various written correspondence exchanged between the bank and the State officials. These documents included letters and official memos, all signed by representatives of the State of Tamil Nadu, which discussed the outstanding loan amounts, acknowledged the debt, and included discussions on repayment schedules.

The correspondence between the bank and the State authorities spanned a significant period. The bank argued that these documents were acknowledgments of the debt and therefore should extend the limitation period.

"Suit was filed by bank for recovery of debt against guarantors. It was shown by terms of deeds of guarantee that guarantee was continuing. Suit will be governed by article 55 of the Limitation Act. So long as the account was live, i.e. neither settled no refused by guarantors to carry out the obligation, period of limitation would not start running. It would start running from the date of breach. Therefore, it was held that suit filed within three years from the date of notice by bank invoking guarantees, such suit was within period of limitation."

(Chaudri on limitation page 766)[16]

Thirdly, that the letter marked 'P20', written by the Secretary of the Education Ministry is addressed to the Director General of Public Finance, not to the Appellant-Company and therefore, it cannot be considered as a valid acknowledgement.

[15] AIR 2002 Mad 423
[16] Chaudhri M, Law of Limitation 766

In the given circumstances, it is important to note that the said document marked 'P20', was copied to the Managing Director of the Plaintiff-Company. The validity of the said acknowledgement, if interpreted in the manner as suggested by the Appellate-Defendant, inevitably, would abundant the ordinary grammatical interpretation of the statute and be wholly contradictory to the main objective and its 'dominant intention.' As observed earlier, Professor C.G. Weeramantry favoured a contemporary approach where, statutes should be interpreted according to plain meaning of their language. Therefore, in accordance with the intention of the legislature, an equitable construction of P20 would certainly mean that there is a valid acknowledgement of debt existing in favour of the Plaintiff-Company.

The criteria in which a document is construed is a function of the Court, in that we find, the equitable construction of the said letter P20, falls nothing short of an acknowledgement of an accrued liability of the Defendant-Appellant, the contents, when duly communicated to the Respondent-Company, clearly comes within the confines of Section 12 of the Prescription Ordinance.

In ***Maniram Seth vs. Seth Rup Chand***[17] the Court stated that, an acknowledgment of debt under the Limitation Act need not be specifically addressed to the creditor. The key requirement is that the acknowledgment is documented, signed, and indicates a subsisting liability.

In the case of ***Bengal Silk Mills vs. Ismail G Hossain***[18]**,** the court addressed the issue of whether entries in a balance sheet can serve as an acknowledgment of debt under Section 18 of the Limitation Act, 1963. The court ruled that an acknowledgment of liability does not need to be specifically addressed to the creditor to be valid. The Court asserted;

[17] (1905) 33 IA 165 (PC) 1058
[18] AIR 1962 Cal 115

"----in other words, an acknowledgement of debt need not be made to the creditors"[19]

The Plaintiff-Company claims that by P20 the Defendant-Appellant has acknowledged its debt, and therefore, it extended the limitation period for initiating this action. The said letter shows that the Ministry of Education has acknowledged the said debt and was awaiting the approval of the treasury for the payment to be made. In the said letter, which was copied to the Plaintiff-Company, the Defendant-Appellant discussed the outstanding debt with reference to 'all printing requirements completed and handed over to the Ministry' and sought approval for payment. The said letter was typed written and signed by the Secretary Ministry of Education, which on all fours, embrace a continuing recognition of the outstanding debt.

P20 read in its entirety, makes no reference that the debt owed to the Plaintiff-Company is conditional. The said letter has clearly acknowledged the Plaintiff-Company of an existing debt. The intention of the legislature manifested in Section 12 of the Prescription Ordinance, in plain words, is an 'acknowledgment of a continuing contract'. P20 is clearly within that manifestation.

In the above circumstances, this Court is of the view that letter P20, a valid acknowledgement of a subsisting liability was sufficient to extend the limitation period, under Section 12 of the Prescription Ordinance and, the action filed by the Plaintiff-Company in the Commercial High Court was well within the time period prescribed in that section.

For these reasons set out above, the Judgment of the Commercial High Court dated 21/06/2013 is hereby affirmed. We find that Triad Advertising (Pvt) Ltd., the Plaintiff-Company, is entitled to recover a sum of Rs. 4,865,313.98 from the Defendant-Appellant, representing the Ministry of Education and/ or the Government of Sri Lanka,

[19] Awasthi SK, Law of Limitation (Act No. 36 of 1963) Along with Amendments (2009) 416

with legal interest from the date of the institution of the action, as prayed for in prayer (a) of the said Plaint, and also for incurred costs in the Commercial High Court as well as in this Court.

Appeal dismissed.

Judge of the Supreme Court

Murdu N.B. Fernando, PC J.

I agree

Judge of the Supreme Court

A.H.M.D. Nawaz J.

I agree

Judge of the Supreme Court