

TELECONFERENCE

Friday 5th October 2007

CORAM

Hon. Hugh Rawlins Justice of Appeal

**SAINT
VINCENT
AND THE
GRENADINE
S**

TELECONFERENCE

Case Name

**Sir James Fitz Allen Mitchell v Ephraim Georges et al
[Civil Appeal No. 23 of 2007]**

Appearances:

Appellant: Mr. Karl Hudson-Phillips, QC and Mr. Lawrence R. Maharaj, QC and with them Ms. Mira Commissiong and Mrs. Louise Mitchell Joseph

Respondent: Mr. Anthony Astaphan, SC and with him Mr. Joseph Delves

Issue:

Leave to appeal

Result:

It was ordered that:

- 1. Leave be granted to the Applicant/Appellant to appeal the decision of the Honourable Mr. Justice Bruce-Lyle as contained in his written judgment dated 14th September, 2007, whereby the learned judge refused the Applicant leave to apply for judicial review.**
- 2. The application shall be treated as the appeal against the said decision and/or that the hearing of the application be treated as the hearing of the appeal against the said decision.**
- 3. Counsel for the Applicant/Appellant shall, on or before the 9th day of October 2007, file and serve an Affidavit in Reply to the Affidavits filed by Roslyn Harry on the 21st and 25th days of September 2005.**
- 4. The Record of Appeal, which shall be filed and served by Solicitors for the Appellant/Applicant on or before the 12th day of October, 2007, shall comprise the following documents in Claim 300 of 2007:**
 - 4.1. Application for leave to apply for judicial review filed on 6th September, 2007, attaching draft order;**
 - 4.2. Affidavit of James Fitz Allen Mitchell with exhibits on behalf of the Applicant filed on 6th September, 2007;**

- 4.3. Skeleton submissions on behalf of the Applicant dated and filed on 7th September, 2007;
- 4.4. Order of Bruce-Lyle J. dated 7th September, 2007 which, *inter alia*, stayed the entire inquiry until further order;
- 4.5. Affidavit of Joel Abraham on behalf of the Applicant filed on 7th September, 2007;
- 4.6. Supplemental affidavit of Joel Abraham on behalf of the Applicant filed on 13th September, 2007;
- 4.7. Judgment of Bruce-Lyle J. dated 14th September, 2007;
- 4.8. Order of Bruce-Lyle J. dated 14th September, 2007 refusing leave to the Applicant to apply for judicial review and setting aside the order dated 7th September, 2007 staying the inquiry;
- 4.9. The Appellant's draft Notice of Appeal exhibited to the affidavit of Mira Commissioning sworn and filed on 14th September, 2007;
- 4.10. The two (2) Affidavits of Roslyn I. Harry filed on behalf of the First Respondent on 21st September, 2007 and 25th September, 2007;
- 4.11. The Affidavit in Reply on behalf of the Applicant/Appellant, which may be filed, if necessary, on or before 9th October, 2007;

5. Solicitors for the Respondents shall file and serve Written Submissions in response to the Written Submissions which were filed on behalf of the Applicant/Appellant on or before the 15th day of October 2007.

6. Solicitors for the Applicant/Appellant shall file and serve Written Submissions in Reply on or before the 22nd day of October 2007.

7. The entire inquiry being conducted by Justice Ephraim Georges, being the sole Commissioner of the Commission of Inquiry appointed by His Excellency the Governor General of St. Vincent and the Grenadines on 10th March, 2003 pursuant to section 2 of the Commissions of Inquiry Act, Chap. 14, to inquire into all of the facts and circumstances on and relating to the Ottley Hall Project in St. Vincent be stayed until further Order pending the hearing of the appeal herein or until further order.

8. The Appeal be fixed for hearing on the 30th day of October 2007 before the full Court of Appeal in at its sitting in St. Lucia

Reason:

The Application for leave, supporting affidavit and Written Submissions on behalf of the Applicant/Appellant, when read in light of the judgment, disclose sufficient grounds for the grant of leave to appeal against the decision of Hon. Mr. Justice Bruce-Lyle. The appeal would be rendered nugatory if the Inquiry against the Applicant/Appellant is not stayed pending the hearing of his appeal. It is also necessary to stay the entire inquiry pending the hearing of the appeal or until further order because it cannot be certain that evidence that might be taken in the absence of the Applicant/Appellant would not prejudice him.