

**IN THE FULL COURT OF THE HIGH COURT
APPELLATE JURISDICTION
2019-HC-DEM-CIV-FCA-110**

BETWEEN:

**GUYANA SUGAR CORPORATION INC
Appellant**

-and-

**VICTOR SEEOBIN
Respondent**

BEFORE:

**The Hon. Mr. Justice Navindra Singh
The Hon. Mr. Justice Gino Peter Persaud**

APPEARANCES:

**Mr. Kamal Ramkarran for the Appellant
Ms. Mandisa Breedy for the Respondent**

**JUDGMENT DELIVERED: 8th December, 2020 (via electronic
mail)**

PERSAUD, J:

1. This is a unique appeal. The Notice of Appeal states that this is an appeal to the Full Court from a decision of Reynolds, J **in the course of the trial** (emphasis mine) in which the learned trial judge upheld an objection made on behalf of the Respondent to prevent the Appellant from cross-examining the Respondent on the circumstances leading to his summary dismissal by the Appellant.

2. The Appellant is asking the Full Court to set aside that ruling and order the trial judge to allow the Appellant to cross-examine the Respondent on the circumstances leading to his dismissal by the Appellant and on such other issues as arise out of the matters in controversy.

Issue

3. Is the ruling of the trial judge during the course of an extant trial upholding an objection by the Respondent during cross examination by the Appellant subject to an appeal to the Full Court?
4. Simply put, the Appellant having suffered an interim adverse ruling during cross examination has interrupted the course of the trial and filed this appeal with the view that the line of questioning should be permitted. The Appellant is therefore hoping that the Full Court will agree with the submission that the trial judge was wrong to uphold the objection and the Appellant would be allowed to resume the line of questioning and the trial now paused, will resume.
5. If this is allowed, it is only logical to consider what may transpire further down the course of the trial if the Appellant or even the Respondent disagrees with another ruling on an evidential point. Will there be another appeal to the Full Court thereby disrupting the trial again? This would mean in theory that parties can conceivably keep filing appeals from rulings of the trial judge during the course of a trial on evidential matters of relevance and admissibility thereby disrupting trials. There would be no end to

litigation. What then would be left to appeal to the Court of Appeal at the end of a trial?

6. In the case of *Demerara Storage Co. Ltd. v. Demerara Wharf and Storage Co. Ltd.* (1942) LRBG 82 it was held that no leave can be granted to appeal from rulings made during the course of a trial. The defendant company had applied during the course of trial for certain persons to be joined as defendants and this was refused by the trial judge. *Justice Stafford* stated at p. 88 as follows:

*I do not wish to hear Counsel for the plaintiffs on this application. The Court is unaware of any precedent for interrupting a hearing to permit an appeal against a ruling made during the course of such trial. Application for leave to appeal at this stage refused **without prejudice to any right of appeal defendants may have at the end of the trial, against the above ruling.** (emphasis mine)*

7. I am of the view that the Full Court should not interfere with, restrict or compel a trial judge to exercise his discretion in a particular manner on an evidential point whilst the civil trial is ongoing such as is complained of in the instant appeal. An appellate court cannot usurp the function of the exercise of a trial judge's discretion during an ongoing civil trial and overrule the trial judge when he exercises such a discretion on the complaint of a party who disagrees on how that discretion was exercised. The undesirable practical effect of this would be severe disruption and interference and interminable delays in civil trials. The floodgates would be opened to appeal to the Full Court every ruling by a trial judge on relevance and admissibility during the course of a trial. This is inimical to the administration of justice.

It would also mean that any party who can afford to or who is litigious can easily disrupt a civil trial by appealing the exercise of discretion of the trial judge on matters of simple practice and procedure.

8. Further, according to the Appellant, the basis of the Full Court's jurisdiction as set out in the Notice of Appeal is that the appeal is against an interlocutory order. However, the jurisdiction of the Full Court is more encompassing than interlocutory orders, simpliciter. *Section 79 of the High Court Act, Chapter 3:02* provides as follows:

*An appeal shall lie to the Full Court from any judgment given or **order** made by a single judge...in respect of which there is no appeal to the Court of Appeal*

(emphasis mine)

9. An appeal is the statutory right to request a superior court to correct an error of the court or tribunal below. An appeal is a creature of statute and the statute provides the limits of the appellate court's jurisdiction and powers.
10. Is the ruling of the trial judge on an evidential point on relevance during the course of a trial an "*order in respect of which there is no appeal to the Court of Appeal*" as contemplated by *section 79* of the said Act and therefore subject to an appeal to the Full Court?
11. It is my considered view that the ruling of the learned trial judge in upholding an objection by the Respondent during cross examination by the Appellant can only be the subject matter of an appeal or a ground of appeal at the end of the trial to the Court

of Appeal, not the Full Court. Such a ruling cannot be the subject matter of an appeal to both the Full Court and the Court of Appeal at varying times. The ruling of the trial judge in upholding the objection during cross examination in a trial that is ongoing cannot therefore reasonably be an “order” contemplated by *section 79* of the *High Court Act* “*in respect of which there is no appeal to the Court of Appeal.*” Therefore, the ruling is not capable of being appealed to the Full Court during the course of a trial.

12. In the circumstances, I do not agree with my learned brother Justice Navindra Singh in his written decision that the appeal should be allowed.

13. It is my view that the appeal is misconceived and an abuse of the process of the Courts and should be dismissed.



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Hon. Mr. Justice Gino Peter Persaud
High Court Judge