

**IN THE CARIBBEAN COURT OF JUSTICE  
Appellate Jurisdiction**

**ON APPEAL FROM THE COURT OF APPEAL OF GUYANA**

**CCJ Application No CV 11 of 2013  
GY Civil Appeal No 115 of 2004**

**BETWEEN**

**DANIEL RAMLAGAN substituted by  
RAMKUMARIE RAMLAGAN**

**APPLICANT**

**AND**

**NARINE SINGH substituted by  
SAIOJINE SINGH**

**RESPONDENT**

**Before The Honourables**

**Mr Justice R Nelson  
Mr. Justice A Saunders  
Mr Justice J Wit  
Mr Justice D Hayton  
Mr Justice W Anderson**

**Appearances**

**Mr Roopnarine Satram and Mr. C V Satram for the Applicant**

**Mr Khemraj Ramjattan for the Respondent**

**JUDGMENT**

**of**

**Justices Nelson, Saunders, Wit, Hayton and Anderson**

**Delivered by**

**The Honourable Mr Justice Nelson**

**on the 21<sup>st</sup> day of March 2014**

- [1] On February 18, 2014 the Court heard this application in Guyana and granted special leave to appeal. The Court now states in outline its reasons for that decision.
- [2] These proceedings relate to a dispute over a two-acre parcel of land out of a larger parcel of twelve acres. The Applicant, Ramlagan, contends that he and his predecessors in title (“the Ramlagans”) were always in possession of the disputed parcel, having acquired prescriptive title thereto by transport No. 48 of 1984. The Respondent (Narine Singh) claims that in 1975 he purchased land from Ramdularie, which included the disputed two-acre parcel and occupied the disputed parcel from 1975 to 1991 until the Ramlagans entered upon it in 1992. This application is for special leave to appeal against so much of the decision of the Court of Appeal dated July 29, 2013 that affirms in part the decision dated December 6, 2004 of Cummings J, as she then was.
- [3] The learned judge held that the disputed two acres should have been excluded from the twelve acres transported to the Applicant’s parents and sibling, Hamil, by transport No. 48 of 1984 pursuant to an order of the High Court dated August 10, 1983. That order of Cummings J dated December 6, 2004 was based on a rejection by the court of a contention that the Ramlagans had been occupying the twelve acres including the two-acre parcel continuously.
- [4] Cummings J. held that “title having been passed and registered in their favour in respect of that two-acre portion, should be set aside on the basis of fraud.” Cummings J held that in obtaining title to the twelve acres the Ramlagans had fraudulently failed to disclose the occupation of the disputed two-acre parcel by Singh since 1975.
- [5] The Court of Appeal reversed that finding of fraud since “no fraud had been laid at the door of the transportees”, in the sense that no proof of fraud in the obtaining of title by the Ramlagans was put before the trial judge. The effect of the Court of Appeal’s order

was to revive the issue of the occupation of Narine Singh from 1975 until he was dislodged in 1991.

- [6] The second holding of Cummings J. was that “Singh not only occupied the two-acre plot, but was in possession of it. The court accepts Singh’s evidence when he said that the defendants told him that his land was ploughed by mistake and promised to rebuild the dam.” Further on the learned judge said, “It is clear that at the time of the defendant’s application for prescriptive title, Singh was already in possession of the two-acre plot, having been there since 1975.” The Court of Appeal affirmed this finding of the learned judge but this holding seems to run counter to its rejection of the setting aside of transport No. 48 of 1984 and its implied acceptance of the Applicant’s contention that the Ramlagans had continuously occupied the twelve acres including the two-acre parcel.
- [7] Faced with these apparently conflicting findings of fact, the Court considered that there was an arguable issue of fact to go to appeal.
- [8] Although in *Lachana v Arjune*<sup>1</sup>, this Court opted for flexibility with regard to concurrent findings of fact in the courts below, generally only in exceptional circumstances would it review concurrent findings of fact of the courts below. This Court opines that having regard to the lack of clarity as to the role of the second, third and fourth defendants, now deceased, in this case, the apparent lack of any evidential basis, as the Court of Appeal held, for the declaration of title in Narine Singh in the order of Cummings J. as drawn up, the apparently conflicting findings of fact arising out of the Court of Appeal’s judgment and the unsettled status of the Appellant on the disputed land, exceptional circumstances exist for the Court to review the facts, and so special leave to appeal should be granted.
- [9] Leave to appeal as a poor person is refused since there was not any material before us on the net worth of the deceased or the substituted Applicant apart from the subject matter of the appeal. No evidence of net worth below \$250,000 Guyana dollars was put before the Court: see Fourth Schedule to the Appellate Jurisdiction (Amendment) Rules 2008.

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<sup>1</sup> [2008] CCJ 12 (AJ)

[10] Costs will be costs in the appeal.

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**The Hon Mr Justice Nelson**

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**The Hon Mr Justice Saunders**

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**The Hon Mr Justice Wit**

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**The Hon Mr Justice Hayton**

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**The Hon Mr Justice Anderson**