

HAJI OMAR
v.
WICKREMASINGHE AND OTHER

SUPREME COURT
FERNANDO, J.
WADUGODAPITIYA, J.
GUNASEKERA, J.
SC(HC)LA 32/2000
HC CIVIL 36/98/1
D.C. COLOMBO CASE NO. 5033/SPL
JANUARY 26, 2001

High Court of the Provinces (Special Provisions) Act No. 10 of 1996 - S.5(2), S.6 - Leave to Appeal from an order - Civil Procedure Code Amendment 38 of 1998 - S.757(2) Cap. 58 - should the Registrar send out the Notice of Application for leave to appeal to the Respondents.

Held :

- (i) In an application for leave to appeal under S.5(2), S.6 of Act 10 of 1996, it is the Registrar who should send the Notice of application for leave to appeal to the Respondents; an order from Court is unnecessary.

APPLICATION for Leave to Appeal to the Supreme Court from the Commercial High Court.

Sanjeewa Jayawardena for Petitioner.

Cur. adv. vult.

January 26, 2001.

FERNANDO, J.

This is an application for leave to appeal under section 5(2) and 6 of the High Court of the Provinces (Special provision) Act No. 10 of 1996. The petitioner moves for notice on the respondents. Mr. Jayawardena draws our attention to section 757(2) of the Civil Procedure Code, as amended by Act. No. 38 of 1998; That section make provision for application for leave

to appeal to the Court of Appeal. Section 6 of Act No. 10 of 1996 provided that application for leave to appeal to the Supreme Court shall be made as nearly as practicable in the manner provided by chapter 58 of the Civil Procedure Code. According to procedure set out in section 757(2) as applicable to this application. It is the Registrar who should send notice of applications for leave to appeal to the respondents and an order from this Court to that effect is unnecessary. The Registrar is directed to take steps in terms of section 757(2) of the Civil Procedure Code in applications of this nature.

WADUGODAPITIYA, J. - I agree.

GUNASEKARA, J. - I agree.

Registrar directed to take steps under S. 757(2) C. P. C.,