

**COOMARASWAMY**  
v.  
**SHANMUGARATNA IYAR AND ANOTHER**

SUPREME COURT

SAMARAKOON, C. J., THAMOTHERAM, J., AND SHARVANANDA, J.

S.C. REFERENCE No. 1/80

C. A. (L.A.) 85/79

C. A. (REVISION) 1920/79

JANUARY 27, 1980.

*Language of the Courts — Directions issued under Article 24(4) of the Constitution — Pleadings filed in Tamil.*

*Ultra vires.*

A party or applicant or any person legally entitled to represent such party or applicant has a right, by virtue of paragraph 2 of Article 24 of the Constitution, to submit pleadings in the Tamil language in the District Court of Colombo and such party is not bound to submit such pleadings in Sinhala also. The State is obliged to provide a translation of the Tamil pleadings into Sinhala for the purpose of keeping the record in Sinhala in the District Court of Colombo in terms of Article 24(1).

A party who files his pleadings in Tamil is not obliged to provide such pleadings in Sinhala also.

*C. Thiagalingam, Q.C. with C. Ranganathan, Q.C., H. L. de Silva, S. Mahenthiran and A. Gnanathanan for defendant-appellant.*

*V. S. A. Pullenayagam with S. C. Chandrasaran, C. V. Vivekananthan, S. Ruthiramoorthy, Mrs. S. Gnanakaran and S. Navaratnam for plaintiff-respondents.*

*K. M. M. B. Kulatunga Addl. Solicitor-General with S. Ratnapala State Counsel for Attorney-General.*

*Cur. adv. vult*

March 13, 1980

**SHARVANANDA, J.**

The plaintiffs-respondents instituted this action in the District Court of Colombo to have the defendant-petitioner ejected from their premises in Kotahena. On the date due for answer, the registered Attorney of the defendant delivered an answer in the Tamil language together with a copy in the English language. Thereupon, the Addl. District Judge of Colombo before whom the matter came up made order "Support on 22.8.79". Accordingly, Counsel on behalf of the defendant justified the delivery of the answer in the Tamil language with his submission that, by virtue of the provisions of Article 24(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka, he was entitled to file his pleadings in the Tamil language. Counsel for plaintiffs did not

object to the answer being filed in Tamil. The Addl. District Judge, however, by his order dated 19.10.79, held that Article 24 of the Constitution did not permit the defendant to file pleadings in Tamil in the District Court of Colombo and directed the defendant to file his answer in Sinhala. The defendant then moved the Court of Appeal for leave to appeal and for revision of the order. The Divisional Bench of the Court of Appeal which heard the application, though it took the view that "an answer filed in the Tamil language is an answer that should have been accepted", referred to this Court the Constitutional question involved in the application in terms of Article 125 of the Constitution.

Neither Counsel for the respondents nor the Attorney-General sought to support the order of the Addl. District Judge for the good reason that it could not be sustained. The language of Article 24(2) of the Constitution is clear and unambiguous. It reads:

"Any party or applicant or any person legally entitled to represent such party or applicant may initiate proceedings and submit to Court pleadings and other documents and participate in the proceedings in Court in either of the National languages."

Article 18 and 19, respectively, declare that :

"The Official Language of Sri Lanka shall be Sinhala" and that "the National languages of Sri Lanka shall be Sinhala and Tamil".

Article 24(1) provides that :

"The Official Language shall be the language of the Courts throughout Sri Lanka..... provided that the language of the Courts exercising original jurisdiction in the Northern and Eastern Provinces shall also be Tamil".

Thus, though the language of the Courts throughout Sri Lanka is Sinhala, the language of the Courts in the Northern and Eastern Provinces is also Tamil. The fact that Tamil is not the language of the Courts in the rest of Sri Lanka other than in the Northern and Eastern Provinces does not mean that it cannot be used in those Courts. While Tamil can be used in these Courts, it is mandatory that their records and proceedings shall be kept in Sinhala, the Official Language. Thus it is not correct to state that the only National language used in the District Court of Colombo is Sinhala. It is quite regular to use both National languages in the District Court of Colombo, but the records therein should however be maintained in the Official Language.

The fundamental error committed by the Addl. District Judge is that he has sought to construe the clear language of Article 24(2) by reference to a directive purported to be issued by the Minister of Justice under Article 24(4) of the Constitution providing for the use of a non-National language in Court. I can find no warrant for this process or mode of construction.

Article 24(4) reads as follows :

“The Minister in charge of the subject of justice may with the concurrence of the Cabinet of Ministers issue directions permitting the use of a language other than the National languages in or in relation to the records and proceedings in any Court for all purposes or for any such purpose as may be specified therein. Every Judge shall be bound to implement such directions”.

This Article makes provision for the use of a language other than a National language in the Courts. It does not deal with the use of National languages in the Courts, and hence neither this Article nor any direction issued under it can have any application or relevance to the use of either of the National languages in Courts. The right to the use of either of the National languages in any Court stems from Article 24(2), and no direction of the Minister issued in terms of Article 24(4) can impinge on or impair that right. Any direction which directly or indirectly modifies such right will *pro tanto* be invalid. Hence that direction can have no bearing on the ordinary and natural sense of the words of Article 24(2).

By virtue of the powers vested in him by Article 24(4), the Minister of Justice, acting with the concurrence of the Cabinet of Ministers, issued on 7th September 1978 a direction permitting “the use of the English language for all purposes in or in relation to the records and proceedings in all Courts throughout Sri Lanka”. By a subsequent direction dated 7th May 1979, the Minister made order that the said direction of 7th September 1978, should be read subject to the following modification :

“I hereby direct that in any Court other than the Supreme Court and the Court of Appeal a language other than a National language may be used for any purpose in any case in which the conduct of proceedings in a National Language might be prejudicial to the proper adjudication of any such matter in such proceedings.

Provided, however, that the pleadings, applications and motions in all such cases shall also be in such National language as is used in such Court".

The Addl. District Judge erred in his assumption that this directive of 7th May 1979 could abridge or negate the unqualified right granted by Article 24(2). The Minister's directions under Article 24(4) is irrelevant in considering the scope or ambit of the language right secured to a party by Article 24(2).

In my view, the proviso in the direction dated 7th May 1979, "Provided however that the pleadings, applications and motions in all such cases shall also be in such National language as is used in such Court", is not warranted by Article 24(4) and is *ultra vires* the powers of the Minister. In the exercise of his powers under Article 24(4), it is not competent for the Minister to incorporate a direction in respect of the use of a National language in Court.

The Court of Appeal has posed the question whether a party who in the exercise of his right files his pleadings in Tamil should be obliged to provide such pleadings in Sinhala also. In my view the Constitution does not impose any such obligation or condition. It would render the party's Constitutional right illusory if such a condition is laid down for the acceptance by Court of pleadings in the Tamil language; there is no legal justification for such a demand. Articles 24(3) and 25 of the Constitution cast on the State the duty on function of providing the necessary facilities.

Accordingly, the determination of this Court is that a party or applicant or any person legally entitled to represent such party or applicant has a right, by virtue of paragraph 2 of Article 24 of the Constitution, to submit pleadings in the Tamil language in the District Court of Colombo and that such party is not bound to submit such pleadings in Sinhala also. The State is obliged to provide a translation of the Tamil pleadings into Sinhala for the purpose of keeping the record in Sinhala in the District Court of Colombo in terms of Article 24(1).

In view of the above determination, this Court sees no useful purpose in remitting the case to the Court of Appeal. It makes the following consequential order :

"The Order of the Addl. District Judge dated 19.10.79 is set aside and he is directed to accept the pleadings in Tamil submitted by the defendant and to take further steps according to law".

Since the plaintiffs-respondents were not parties to the order made by the Addl. District Judge, we make no order for costs of proceedings in this Court or in the Court of Appeal.

**SAMARAKOON, C.J.** — I agree.

**THAMOTHERAM, J.** — I agree.