

IN THE CONSTITUTIONAL COURT OF SEYCHELLES

**[Corum: D. KARUNAKARAN – PRESIDING JUDGE, B. RENAUD –
JUDGE, C. MCKEE - JUDGE]**

**MA 208/2014 & MA 209/2014
(arising in CP 03/2014)**

[2014] SCCC 08

VIRAL DHANJEE

Petitioner

versus

JAMES ALIX MICHEL & ORS

Respondent

Heard: 29th July 2014

Counsel: Mrs. Amesbury for petitioner

Mr. Ananth for 1st, 2nd and 3rd respondents

Delivered: 29th July 2014

RULING

Judgment of the Court

[1] This is a unanimous decision of this Court on two motions filed by the applicants in MA208 of 2014 and MA209 of 2014 respectively arising in CP03 of 2014.

- [2] In the first motion MA209 of 2014, the respondents have applied for an order seeking “leave to appeal” to the Court of Appeal against the Ruling of this court delivered on the 15th July 2014, on the issue of recusal of a Judge, who was on the previous panel. In the second motion MA208 of 2014, the respondents have applied for an order seeking a “stay of further proceedings” in the main petition CP03 of 2014.
- [3] We diligently examined the submissions made by counsel on both sides. Two of the judges in the instant panel, have already held on similar applicants in CP02 of 2014, that both such applications were procedurally defective and not properly before the Court. The Honourable Attorney General, Counsel for applicants in this matter has not given any convincing reason/s that could change the position, the Court has set in the earlier Ruling deliver in CP02 of 2014. In any event, whatever be the arguments advanced by counsel for and against these two motions, the fact remains that on the face of the pleadings and records, it is evident that both motions are not properly before this Court, namely the Constitutional Court. These two motions have obviously, been instituted before the “Supreme Court”, and have been registered and numbered as such in the suit register of the Supreme Court Causes.
- [4] In the circumstances, we find that both motion are procedurally defective, irregular and not maintainable in law. Both applications are not properly before this Court and liable to be dismissed *in limine*. The applicants herein could be hurt, when their applications are being dismissed *in limine* because of a “legal technicality” or “procedural irregularity”. However, in the long run a “Democratic Society” and “Rule of Law” would be hurt still more, if we allow or condone when lawless conduct by law-enforcement agencies goes unchecked.
- [5] We therefore, set aside both motions accordingly.

Signed, dated and delivered at Ile du Port on 29th July 2014.

D Karunakaran
Presiding Judge

B Renaud
Judge of the Supreme Court

C Mckee
Judge of the Supreme Court