



## CARIBBEAN COURT OF JUSTICE

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(For immediate release)

**No. 19:2019**  
**24 May 2019**

### **GUYANESE MAN FAILS IN HIS BID TO HAVE JUDGMENT ENFORCED AT CCJ**

**Port of Spain, Trinidad.** The Caribbean Court of Justice (CCJ) today dismissed an application for special leave to appeal in the matter of *James Ramsahoye v Linden Mining Enterprises (LME), Bauxite Industry Development Company Limited (BIDCO) and National Industrial Commercial Investments Limited (NICIL)*. Mr. Ramsahoye was seeking permission from the CCJ to appeal a decision by the Court of Appeal in Guyana to dismiss enforcement orders made by a single Justice of Appeal to pay him damages and a monthly pension from a previous employment judgment awarded in his favour against the respondents.

After being terminated in 1998, after 26 years of service, Mr Ramsahoye took legal action against his former employers, Linden Mining Enterprises and Bauxite Industry Development Company Limited, which were state enterprises. He was unsuccessful at the High Court; however, he appealed the judgment and was awarded damages of US\$174, 032.49 and a pension of US\$2000.72 monthly.

While the matter was pending in the Court of Appeal, the assets of BIDCO were transferred to National Industrial Commercial Investments Limited, another state enterprise. Following the judgment, there were multiple proceedings between the parties aimed at either preventing the payment of, or enforcement of, the decision. This eventually resulted in the Honourable Mr. Justice Roy, a Justice of Appeal in the Court of Appeal, making orders for the enforcement of the judgment. Those orders were ultimately dismissed by the Court of Appeal as they held that a single sitting Justice of Appeal did not have the authority to make orders relating to the enforcement of a judgment.

Mr. Ramsahoye then sought special leave to appeal this decision by the Court of Appeal at the CCJ. In considering whether the Court should grant the leave, the Court reviewed its earlier decisions in relation to the grant of special leave and concluded that those decisions demonstrated that a two-stage test was used to grant leave. The first stage was to determine the circumstances in which the application for special leave was made and the second was to determine whether there was some special feature of the case for the Court

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to consider granting special leave. These special features include; whether there was a serious error of law or a substantial miscarriage of justice; or whether the application has a real prospect of success which would warrant the Court hearing the appeal.

The CCJ found that the correct test to be applied in this case was whether there had been an error of law, or substantial miscarriage of justice, resulting from the decision of the Court of Appeal. The Court examined the orders made by the Justice of Appeal, and the scope of the powers granted to him by the Rules of the Court of Appeal and held that the single Justice of Appeal was incorrect in making enforcement orders as this was outside of his legal authority. In the judgment the Court stated, “that the learned Justice of Appeal, who no doubt may have been moved by Mr. Ramsahoye’s plight, had no jurisdiction to make those orders”. In considering whether there was a substantial miscarriage of justice, the CCJ noted that they could not grant special leave, although Mr. Ramsahoye did have difficulty in receiving the payments. However, the Court highlighted that there is an appeal before the Court of Appeal in Guyana which would give parties an opportunity to examine the orders requested by Mr. Ramsahoye. As such, the Court dismissed the application for special leave and made no order for costs.

In a separate decision, the Honourable Mr. Justice Barrow agreed with the Court’s judgment not to grant special leave. He found that a review of the CCJ’s original decision on granting special leave to appeal shows that in considering whether leave should be granted, there should be a possibility that the decision being appealed is wrong and the matter has a possibility of succeeding. The Hon. Mr Justice Barrow found that Mr Ramsahoye’s application neither had any special feature to warrant being granted special leave nor did he have a realistic chance of success. The full judgment of the Court, and a judgment summary, are available at [www.ccj.org](http://www.ccj.org).

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