

ON APPEAL

FROM THE SUPREME COURT OF MAURITIUS

B E T W E E N :

1. THE MARINE WORKERS UNION
2. PREMANANDA PONAMBALLUM
3. CLEMENT MOUTOU
4. MAURICE PARUIT

APPELLANTS

V/S

THE MAURITIUS MARINE AUTHORITY OF PORT LOUIS

RESPONDENT

AND

THE MINISTERE PUBLIC

CO-RESPONDENT

IN THE PRESENCE OF:-

1. FEE SIAN YOUNG KIANG YOUNG
2. ROGER REQUIN

CO-RESPONDENTS

AND

5. THE MAURITIUS MARINE AUTHORITY  
EMPLOYEES UNION
6. PERCY DEREK LINGAYA
7. MOOSSA IBRAHIM
8. NARAINSAMY VALAYDEN

APPELLANTS

V/S

THE MAURITIUS MARINE AUTHORITY  
OF PORT LOUIS

RESPONDENT

AND

THE MINISTERE PUBLIC

CO-RESPONDENT

IN THE PRESENCE OF:-

1. FEE SIAN YOUNG KIANG YOUNG
2. ROGER REQUIN

CO-RESPONDENTS

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ADDITIONAL STATEMENT OF CASE BY THE APPELLANTS  
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1.

1. That the order of the Minister for Ports, purported to be made under section 9 of the Ports Act and/or the "objection" of the Ministere Public (Attorney-General) are invalid because they are not and have not been shown to be in the public interest.

2. The said order or objection and each of one of them constitute deprivation of appellants' property contrary to the Constitution especially in its section 3.

Sir Maurice Rault (then Chief Justice) held in the case of "Societe" United Docks v/s Government of Mauritius (Supreme Court Library Judgment No. 445(a) 1981) that deprivation of property per se and/or any taking of possession of property gave right to compensation under section 3 of the Constitution.

Section 3 reads as follows:

" It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest each and all of the following human rights and fundamental freedoms, namely --

(a) the right of the individual to the protection of the law;

(b) the right of the individual to protection from the privacy of his home and other property and from deprivation of property without compensation, and the provisions of this Chapter shall have effect for the purpose of affording protection to the said rights and freedom subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by only individual does not prejudice the rights and freedoms of others or the public interest."

3. A "right of property" in appellants against respondents MMA has been extinguished thereby enriching the MMA and this without provision for compensation to appellants contrary to section 3(a) and (c) of the Constitution.

4. That no affidavit was filed either on behalf of the Minister responsible for Ports or the Attorney-General, therefore there was no opportunity for cross examination afforded.

5. The fact salaries at the MMA were already aligned on the public service (civil service) appears from the chart annexure XH.

6. As stated in the affidavit dated the 22nd March, 1984 sworn by appellants' attorney, Chart, XH, XJ, XK, XL were put in a few days after argument closed before the Supreme Court, at the request of the Court.

ADDITIONAL REASONS OF APPEAL

1. The direction and/or objection are invalid for the reasons contained in paras. 2 and 3 above.
2. The direction and/or objection of the Minister and the Attorney-General are invalid for the reasons stated in para. 2 (i) (ii) (iii) (iv) of the Statement of Case of appellants.

I certify that the above are good grounds in my opinion for appeal to Her Majesty's Privy Council and I undertake to support them at the hearing.

Dated the 9th April, 1984.

M. GUJADHUR, Q.C.