

IN THE FIJI COURT OF APPEAL
CIVIL APPEAL NO.62 OF 1987

Between:

AIR PACIFIC LIMITED

Appellant

- and -

AIR PACIFIC EMPLOYEES ASSOCIATION

Respondent

RULING

This is an application before a Judge in Chambers for leave to appeal to the Supreme Court against a decision of the Fiji Court of Appeal delivered on the 11th of November, 1988.

Rule 9(1)(c) of the Supreme Court Appeal Rules (No.2) 1988 reads as follows:-

"An appeal shall lie from the decisions of the Court of Appeal to the Supreme Court -

- (a)
- (b)

(c) with the leave of the Court of Appeal, from decisions in any civil proceedings where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its general or public importance or otherwise, ought to be submitted to the Supreme Court."

This Rule in fact repeats the provisions of Section 19(2)(a) of the Judicature Decree 1988.

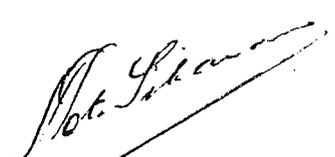
In my opinion neither the Judicature Decree nor the Supreme Court Appeal Rules (No.2) of 1988 ever intended that a single Judge in Chambers should have jurisdiction to deal with an application of the nature before me. The expression "in the opinion of the Court of Appeal" both in the Rules as well as in the Decree clearly denotes that the power to grant leave vests in the Court itself as distinct from a single judge of that Court.

In coming to this conclusion I have not overlooked the provisions of Section 20(a) of the Court of Appeal Act (Cap 12) whereby a single judge may exercise the powers of the Court "under this Part" to give leave to appeal. The use of the words "under this Part" clearly confines the power to grant such leave to appeals intended for the Court of Appeal only. The application before me is an application for leave to appeal to the Supreme Court. As such Section 20 of the Court of Appeal Act has no relevance to the present application.

Consequently I rule that as a single judge I have no jurisdiction to deal with this application. Rather than dismiss the application I propose to have it listed for hearing before the Fiji Court of Appeal during its next session which commences on 16th May, 1989.

Suva

7th April, 1989.


(Sir Moti Tikaram)
Resident Justice of Appeal