

Anwar Siraj and Another v Ting Kang Chung John and Another
[2009] SGHC 71

Case Number : OS 1231/2008, SUM 4814/2008
Decision Date : 25 March 2009
Tribunal/Court : High Court
Coram : Lee Seiu Kin J
Counsel Name(s) : The first and second plaintiffs in person; Ng Yuen (Malkin & Maxwell LLP) for the first defendant; S Thulasidas (Ling Das & Partners) for the second defendant
Parties : Anwar Siraj; Khoo Cheng Neo Norma — Ting Kang Chung John; Teo Hee Lai Building Construction Pte Ltd

Criminal Procedure and Sentencing

25 March 2009

Lee Seiu Kin J:

1 The first defendant ("Ting") is the arbitrator in arbitration proceedings between the plaintiffs and the second defendant ("the Contractor") and has written an arbitration award ("the Award"), although to date it has not been collected by either side. On 24 September 2008, the plaintiffs took out this originating summons for an order, *inter alia*, to set aside the Award and refer any outstanding disputes with the Contractor to the courts for resolution. On 31 October 2008, the plaintiffs filed Summons No 4814 of 2008 ("the Summons") with the following prayers:

- 1) pursuant to the Rules of Court Order 4 Rule 1, the matters pending in Originating Summons OS1231/2008/W AND Originating Summons OS1807/2006/S AND Suit 348/2006/M be consolidated on such terms as the Honourable Court thinks just;
- 2) any other directions which the Honourable Court deems fit and just in respect of and/or arising from the consolidation of the aforementioned three pending matters so as to ensure the economic, expeditious, fair and just resolution of all the pending matters;
- 3) pursuant to the Rules of Court Order 28 Rule 8 and Order 5 Rules 2 and 4 the Originating Summons OS1231/2008/W be converted into a Writ of Summons and the proceedings should be continued as if the matter had been begun by Writ;
- 4) any other directions which the Honourable Court deems fit and just in respect of and/or arising from the conversion of OS1231/2008/W into a Writ of Summons including but not limited to the requirements under Order 25 Rules 2 to 7;
- 5) that the Police and/or the Commercial Affairs Dept (CAD) and/or any other appropriate Investigating Authority be directed to:
 - a) speedily complete their investigations into Magistrate's Complaint Nos COM-002184-04 (CM-002943-04), COM-001081-04 (CM002436-04) and MAG-000262-05/C (CM-002282-05) and to furnish their comprehensive report to this Court together with full details of the names, particulars (including NRIC No and address) and nationality of parties named and/or identified in the report(s) and/or photographs;

b) speedily investigate

i) all allegations of fraud, fraudulent claims and cheating, falsification of bills and/or receipts made against the 1st and 2nd Defendants and/or their agents and/or staff and/or servants;

ii) all allegations of criminal negligence due to loss of documents and/or any other evidence caused by and/or resulting from the actions/omission of the 1st Defendant

And to submit their Report urgently and directly to this Honourable Court;

6) any other relief and/or remedies as the Honourable Court deems fit and just;

7) Costs.

2 The plaintiffs, who were unrepresented, and counsel for the defendants appeared before me on 19 January 2009 solely for the purpose of prayer 5 of the Summons. After hearing the submissions of the plaintiffs and counsel for the defendants, I declined to make the order prayed for in prayer 5. I informed the plaintiffs that criminal complaints are investigated by the police and if any criminal offence is disclosed as a result of such investigation, the matter is referred to the Public Prosecutor who decides whether an offence is made out and if so, whether to prosecute the offender. While a judge may refer criminal complaints to the police for investigation, he has no power to order them to conduct an investigation if they decide not to do so, or to speed up any investigation. I would add that even if I had such power, in the circumstances of this case, in particular the fact that there was no connection between the events complained of in the three Magistrate's complaints referred to in prayer 5 of the Summons and the dispute in this originating summons or any of the related cases, viz Originating Summons No 1807 of 2006 and Suit No 348 of 2006, I would not be inclined to exercise such discretion to make those orders.

3 As the plaintiffs have failed in this application, I ordered the plaintiffs to pay costs to the defendants, which are to be taxed.

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