

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING
VIDEOCONFERENCE

MONTSERRAT
VIDEOCONFERENCE
26th July to 29th July 2021

APPLICATIONS AND APPEALS

Case Name:

[1] Karen Allen
[2] Steven Fagen
v
[1] Registrar of Companies
[2] Government of Montserrat
[3] Krys Global, Greig Mitchell &
Kenneth Krys (Joint Liquidators)

[MNIHCVAP2020/0019]

Heard together with:

[1] Karen Allen
[2] Steven Fagen
[3] Marie Carole Lidbetter
v
[1] Registrar of Companies
[2] Government of Montserrat
[3] Krys Global, Greig Mitchell &
Kenneth Krys (Joint Liquidators)

[MNIHCVAP2020/0021]
(Montserrat)

Date:

Monday, 26th July 2021

Coram:

The Hon. Dame Janice M. Pereira, DBE, Chief
Justice

The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Darshan Ramdhani, Justice of Appeal [Ag.]

Appearances:

Appellants/Respondents: Ms. Karen Allen

Applicants/Respondents: Ms. Renee Morgan for the 1st and 2nd respondents
No appearance for 3rd respondents

Issues:

Interlocutory appeal – Application to strike out notice of appeal on basis that leave to appeal was required – Whether or not leave to appeal was required – Section 31(2)(g) of the Supreme Court Act Cap. 2.01

Type of order:

Oral decision

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The notices of appeal filed in appeal nos. MNIHCVAP2020/0019 and MNIHCVAP2020/0021 are nullities and are hereby struck out.**
- 2. The appellants shall jointly and severally bear the costs of the applications fixed in the sum of \$1,000.00 to be paid to the respondents/applicants no later than 6th September 2021.**

Reason:

On the applications to strike filed in respect of the appeals numbered 19 and 21 of 2020 by the respondents to those appeals and the court having heard both applications together, the court was satisfied that the appeals arise from interlocutory orders made by the court below in the substantive liquidation proceedings in respect of the company Mont Tobacco and those orders are

accordingly orders made by the court in respect of which permission is required to appeal pursuant to section 31(2)(g) of the Supreme Court Act of Montserrat. Having listened to the audio transcript of the proceedings as well as having heard the appellants version of the said transcript of the proceedings, the Court was further satisfied that permission to appeal was neither sought nor obtained from the learned judge below. Further no permission was sought or obtained from this Court prior to filing the notices of appeal.

Case Name:

**David Duberry
v
Glenworth Prince**

**[MNILTAP2016/0002]
(Montserrat)**

Date:

Monday, 26th July 2021

Coram:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Darshan Ramdhani, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. David Duberry

Respondent:

Mr. Warren Cassell

Issues:

Application for an adjournment

Type of order:

Adjournment

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The appellant shall satisfy the Court that the appeal filed on 14th November 2016 against the decision of the Labour Tribunal made on 10th May 2016 is properly before the Court in terms of time to appeal provided for under the Labour Code of Montserrat.
2. The appellant shall file and serve written submissions with authorities in support of his appeal no later than 15th October 2021.
3. The respondent shall file and serve written submissions with authorities in response to the appeal no later than 30th November 2021.
4. The appellant shall be at liberty to file and serve reply written submissions with authorities no later than 17th December 2021.
5. The matter is adjourned due to the appellant's inability to retain counsel, his counsel on record having recently died, to the next sitting of the Court of Appeal for Montserrat during the week commencing on 7th February 2022.
6. The Registrar of the High Court shall serve a copy of this order on the appellant personally and shall provide proof of service thereafter.

Reason:

The Court having noted that counsel on the record had recently passed, adjourned the matter and gave directions to file submissions.

Case Name:

**Joseph Fenton
v
Audrey Frederick**

**[MNIHCVAP2020/0013]
(Montserrat)**

Date: Monday, 26th July 2021

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Darshan Ramdhani, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Jean Kelsick
Respondent:	No appearance

Issues: Civil appeal – Pleadings – Whether the issue of trust was properly raised on the pleadings – Circumstances in which Court may raise and determine issue when not raised on pleadings – Whether evidence on oath in a civil trial between private parties, could create a legitimate expectation – Propriety estoppel – Whether there was any basis to ground a finding of propriety estoppel

Type of order: Oral judgment with written reasons to follow

Result/Order: IT IS HEREBY ORDERED THAT:

1. The appeal is allowed.
2. The decision of the learned trial judge in the court below made on 11th May 2019 is set aside in its entirety.
3. The respondent shall pay the appellant's costs on the appeal in accordance with rules 65.5(2)(b) and 65.13 of the Civil Procedure Rules 2000 in the sum of \$5,000.00.
4. The court will provide written reasons for its decision at a later date.

Reason: The Court having heard read the notice of appeal and submissions of counsel for the appellant was satisfied that the appeal should be allowed and set aside the oral declarations made by the trial judge. The Court indicated that it would provide written reasons for its decision at a later date.

Case Name: Malliouhana-Anico Insurance Company
v
[1] B & F Co. Limited
[2] Geoffrey Fieger
[3] Kathleen J. Fieger
[AXAHCVAP2020/0012]
(Anguilla)

Date: Tuesday, 27th July 2021

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:
Appellant: Mr. Leslie Haynes with him Mr. Kerith Kentish
Respondents: Ms. Tana'ania Small Davis, QC with her Ms. Tara Carter

Issues: Application to strike out appeal – 26.3(1) of CPR 2000 – Application to extend time for filing record of appeal and skeleton arguments – Rule 26.1(2)(k) of CPR – Principles guiding grant of an extension of time

Type of order:

Oral decision

Order:

IT IS HEREBY ORDERED THAT:

- 1. The appellant's application for an extension of time to file the record of appeal and the submissions in support of the appeal is granted.**
- 2. The record of appeal filed on 11th December 2020 and the submissions in support of the appeal filed on 15th December 2020 are deemed to have been filed on time.**
- 3. The application to strike out the notice of appeal filed on 19th August 2020 is dismissed.**
- 4. Costs to the respondents on both applications agreed in the sum of US\$2,500.00.**

Reasons:

The Court having read the application by the respondent to strike out the appeal and the application made by the appellant for an extension of time to file the record of appeal and the submissions in support of the appeal, the affidavit in support and the submissions in support of both applications filed by the respective applicants and have heard the distinguished oral submissions by queen's counsel on both sides. The Court noted that the notice of appeal against the order of Innocent J was regularly filed after leave of the court on 19th August 2020 but that the record of appeal and submissions in support required to be filed together with the notice of appeal were not filed until 11th December 2020 and 15th December 2020 respectively.

The Court also noted that an application for an extension of time to file the record and the submissions was not made until after an application was made by the respondent to strike out the notice of appeal albeit only an hour after. On the other hand the Court noted that the record of appeal and the appellant's submissions have in fact been filed although well beyond the time they should have been filed. The Court noted also that they were filed before the application was made to strike out the appeal. The Court also considered that the respondents have responded to the appellant's submission even though doing so without prejudice to their application to strike out the appeal. We note that at the case management conference preceding this sitting of the court, counsel representing the parties expressed their readiness to proceed with the hearing of the appeal today. The Court took into consideration that the appellant is seeking to appeal against a case management order made by a judge in the exercise of his discretion and the heavy burden that it places on the parties seeking to get such an order set aside by the court. On the other hand, having heard the submissions of learned Queen's Counsel Mr. Leslie Haynes that the judge did in fact make an error of law in that he treated as relevant documents which were not relevant to the matters pleaded in the case and the Court was of the view that there are good prospects of success on the appeal. On the narrow issue of whether the appellant was entitled to avoid the policy on the basis of misrepresentation or non-disclosure by the respondent and that the issue of reinsurance between the appellant and his reinsurers is not a pleaded one and ought therefore to not have been given relevance by the judge in making the order for specific disclosure. Taking all of these factors into consideration and the fact that the hearing of the appeal will not be affected by the grant of an extension

of time, the Court believes that in weighing the prejudice that the balance lies in the favour of allowing the extension of time rather than refusing it and that any prejudice to the respondent can be compensated by an order for costs and interests if the respondents succeed in their claim in the court below. Taking all of this into consideration, we believe that the justice of the case requires that the appellant's application for an extension of time to file the record of appeal and the submissions in support of the appeal should be granted.

Accordingly, the Court granted the extension of time to the appellant to file the record of appeal and the submissions in support out of the time. The record of appeal filed on 11th December 2020 and the submissions in support of the appeal filed on 15th December 2020 is deemed to have been filed on time. The application to strike out the notice of appeal is dismissed. The respondents are entitled to their costs on both applications.

Case Name:

**Malliouhana-Anico
Insurance Company**

v

[1] B & F Co. Limited

[2] Geoffrey Fieger

[3] Kathleen J. Fieger

**[AXAHCVAP2020/0012]
(Anguilla)**

Date:

Tuesday, 27th July 2021

Coram:

**The Hon. Dame Janice M. Pereira, DBE,
Chief Justice**

The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant: Mr. Leslie Haynes with him Mr. Kerith Kentish

Respondents : Ms. Tana'ania Small Davis, QC with her Ms. Tara Carter

Issues:

Interlocutory appeal – Rule 62.10 of the Civil Procedure Rules 2000 – Appeal against exercise of case management powers – Disclosure – Application for specific disclosure – Whether or not the insurer is acting in bad faith -

Application to strike out appeal – 26.3(1) of CPR 2000 – Failure to

Type of order:

Oral judgment

Result/Order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is dismissed.**
- 2. Cost to the respondent to be assessed by the court below if not agreed by the parties within 21 days.**
- 3. The stay in respect of the proceedings is lifted.**

Reason:

The Court was unanimous having considered the grounds of appeal, the submissions of counsel on both sides, including the oral arguments that have been placed before the court, the documentation in the record of appeal as well as the hearing bundle, considering the authorities that have

been referred to as well as considering the approach taken by the learned judge in his decision, which the court has read in its entirety.

The Court also notes the concessions in relation to litigation privilege made by the appellant before the judge below in respect of the documents being sought to be specifically disclosed or the class of documents sought to be disclosed by the respondent and the natural inference drawn from the appellants' amended list of documents for disclosure, all of which were before the learned trial judge. The Court was not satisfied that the learned judge, on the matters placed in issue in this case, coupled with the course of the proceedings below and with which the learned trial judge would be familiar that the learned judge made an error of law in principle.

Case Name:

**Janette Cynthia Lee
v
[1] Olive Osborne (as lawful
attorney for Noel Osborne
[2] The Registrar of Lands**

[MNIHCVAP2019/0013]

Date:

Wednesday, 28th July 2021

Coram:

**The Hon. Dame Janice M. Pereira, DBE,
Chief Justice
The Hon. Mr. Mario Michel, Justice of
Appeal**

The Hon. Mr. Darshan Ramdhani, Justice of Appeal [Ag.]

Appearances:

Appellant:

Ms. Chivone Gerald

Respondents:

**Mr. Jean Kelsick for the 1st respondent
No appearance for the 2nd respondent**

Issues:

Civil appeal – Land law – Part 60.8(1) of the Civil Procedure Rules 2000 – Process of appeal of decision of Registrar of Lands – Appeal from decision of Registrar of Lands by way of rehearing matter – Exercise of discretion – Whether learned judge erred in his approach in terms of treating the matter as a review rather than a re-hearing – Section 147(4) of the Registered Land Act of Montserrat – Prescribed costs – 65.5(2)(b) of the CPR – Value of claim

Type of Order:

Oral judgment with written reasons to follow

Result / Order:

IT IS HEREBY ORDERED THAT:

The appeal is allowed.

The decision of the learned trial judge made on 15th October 2019 is set aside in its entirety.

The matter is remitted to the High Court to be heard by a different judge.

The 1st respondent shall bear the appellant's costs fixed in the sum of \$5,000.00 being two-thirds of the prescribed costs in the court below, to be paid to the appellant on or before Monday, 16th August 2021.

The Court will provide written reasons for its decision at a later date.

Case Name:

**[1] Karen Allen
[2] Steven Fagen
[3] Marie Carole Lidbetter
v**

**[1] Registrar of Companies
[2] Financial Services
Commissioner**

**[MNIHCVAP2019/0006]
(Montserrat)**

Date:

Wednesday, 28th July 2021

Coram:

**The Hon. Mr. Mario Michel, Justice of
Appeal
The Hon. Mr. Dexter Theodore, Justice of
Appeal [Ag.]
The Hon. Mr. Ramdhani Darshan, Justice
of Appeal [Ag.]**

Appearances:

Applicants:

In person

Respondents:

Ms. Renee Morgan

Issues:

**Civil appeal – Company law –
Appointment of inspector under section
518 and 519 of Companies Act Cap. 11.12
– Whether inspector appointed by the
court was improperly appointed –
Whether there was a requirement that a
person appointed as an inspector under
section 519 must be a chartered
accountant – Evidence – Rule 32.14 of
the Civil Procedure Rules 2000 –
Whether inspector's report was**

inadmissible since inspector was improperly appointed

Type of Order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

The decision is reserved.

Case Name:

**Keston Riley
v
[1] The Attorney General
[2] Superintendent of Prisons

[MNIHCVAP2019/0003]
(Montserrat)**

Date:

Thursday, 29th July 2021

Coram:

The Hon. Dame Janice M. Pereira, DBE,
Chief Justice
The Hon. Mr. Mario Michel, Justice of
Appeal
The Hon. Mr. Darshan Ramdhani, Justice
of Appeal [Ag.]

Appearances:

Appellant:

Mr. Warren Cassell

Respondent:

Ms. Sheree Jemmotte-Rodney

Issues:

Interlocutory appeal – Overriding
objective – Rule 1.1 of the Civil
Procedure Rules 2000 – Failure to
comply with case management orders of
court – Part 26.3(1)(a) of the Civil
Procedure Rules 2000 – Claim struck out
for failure to comply with case
management orders and directions of

**the court – Exercise of judicial discretion
– Whether learned judge erred in striking
out claim where there was a failure to
comply with case management orders**

Type of order:

Oral judgment

Result/Order:

IT IS HEREBY ORDERED THAT:

The appeal is dismissed.

Reason:

This appeal arising from the decision of the learned trial judge where on 4th March 2019, the matter having been fixed for trial, the parties having failed to comply with various case management powers made on 17th September 2018, in readiness for trial exercised his powers and discretion under the Part 26.3(1)(a) Civil Procedure Rules 2000 and struck out the case for failure to comply with some of the orders. It is not disputed that the learned judge was exercising a discretion and the appellant would be required to show that the learned judge made some error of principle or that he took into account irrelevant matters or failed to take into account relevant matters or that he exercised his discretion in such an abhorrent way that it may be said that he exceeded the generous ambit of the discretion entrusted to him.

The history of the matter shows that although the learned judge was assured that the parties would be ready for the trial date when he reviewed the matter on 10th December 2018 that by 4th March 2019 those assurances had not been kept so that by 4th March 2020 the matter was not ready for trial. The Civil Procedure Rules are there to be observed and not to be flouted without

even as much as an attempt at a good explanation for the non-compliance, no extensions of time were sought. The Civil Procedure Rules require the parties to assist the court in furthering the overriding objective of dealing with cases justly. Dealing with cases justly require, among other things, ensuring that it is dealt with expeditiously and allotting to it an appropriate share of the court resources while taking into account the need to allot resources to other cases. The Court refers to the decision of the Privy Council in Crick and another v Kurt Brown [2020] UKPC 32, an appeal from the Court of Appeal of Trinidad and Tobago where the rules of court are very much similar to our Civil Procedure Rules 2000 in the Eastern Caribbean. This Court therefore adopts the following passages of the Board from that decision:

[24] ... The directions issued by Mohammed JA in the present cases were in conventional form [as is in this case] and did not stipulate a sanction as penalty for non-compliance with them. The effect of this was that, if there was non-compliance with the directions and a question arose how the court should proceed in the light of that, the party who failed to comply would be subject to the general case management power of the court under CPR r 26.1. That power would fall to be exercised so as to further the overriding objective in CPR Pt 1, just like any other power or discretion of the court arising under the Rules or any order made under the Rules.

[25] CPR r 26.6(1) requires a court to specify a sanction for breach of any order or direction when it can. It is desirable for the court to seek to foster predictability and clarity for the parties to

proceedings in this way when it is feasible or desirable to do so. But in many cases, it will not be feasible or desirable to do so. For instance, at the time when an order is made or directions are given it may be difficult for a court to predict with any confidence the circumstances which might affect the justice of imposing any particular penalty for non-compliance. In particular, depending on the circumstances, it may be difficult to say in advance that imposition of a penalty in the form of a pre-determined sanction is appropriate. The Rules themselves recognise that this is the case, since they make provision for an application to be made for an 'unless order' (ie an order which does carry a specified sanction, see CPR r 26.3) or for the court to impose some as yet unspecified sanction (eg to strike out a claim or an appeal, such as under CPR r 26.2 or r 64.13) after it becomes clear that some other rule or order has not been complied with.

[26] In giving conventional case management directions for the hearing of the appeals in these two cases, Mohammed JA was plainly entitled to consider that the situation in each case was not such as to call for the specification of any sanction in the order which the court made. No one suggested that he should include any sanction in the directions order. Judged at the time the directions were given, the circumstances in which there might be a failure to comply with them were many and various and it was not appropriate to specify a pre-determined sanction at that stage.

[27] This did not mean that there would be no consequences attaching to non-compliance with the directions. On the

contrary, aside from the obvious consequence that an extension of time would be required for the filing of any written submissions, the effect would be as stated in para 24 above. Any party who failed to comply with them would be at risk of suffering such detriment as the court might think it right to impose in the exercise of its discretion, having regard to the need to further the overriding objective. A party who has failed to comply with a step directed by the court should seek an extension of time, and should understand that it might be refused.

...

[30] In the Board's view, there is nothing in these points. CPR r 64.13 gives the Court of Appeal a power to engage in active case management of its own motion by giving notice with a view to striking out a notice of appeal or counter-notice, should it choose to do so. But it does not impose any duty on the court to manage its list in that way. It is the responsibility of the parties to prepare properly and to be ready for an appeal hearing which has been listed [for a trial].

...

[31] In the Board's judgment, the Court of Appeal was fully entitled not to grant the Cricks' application for an adjournment of the hearing of the appeal, which they only made on the day of the hearing. Also, in the circumstances which had arisen as a result of the Cricks' failure to comply with the court's order for directions, the Court of Appeal was fully entitled to decide that it would be unfair to Mr. Brown to allow counsel for the Cricks to advance the appeal by means

of submissions of which no notice whatsoever had been given to him.

[32] The Cricks had ample notice under the directions to ensure that they filed their written submissions in time. If for any reason circumstances arose which meant they were unable to comply with the directions, they ought to have alerted the court to the problem by making a prompt application for an extension of time well in advance of the hearing date. This would have meant that the timetable could be adjusted (if that was fair to Mr. Brown) in such a way as to ensure that the hearing date would be effective or would have allowed the court to list another hearing for that date while postponing the Cricks' appeal, so that overall other litigants would not be affected. The Cricks failed to make use of the opportunities available to them to present their case. There is no unfairness to them in the way the Court of Appeal determined their appeal. This is a case in which the Board has no hesitation in dismissing the Cricks' further appeal and in supporting the Court of Appeal's 'commendable desire to encourage a new litigation culture' and 'the steps that it is taking to rid Trinidad and Tobago of the "cancerous laissez-faire approach to civil litigation"' (see *A-G v Matthews*, para [19]).

This court adopts those helpfully passages. The Court cannot condone a laissez-faire approach to civil litigation where rules are breached more often than they are honoured. Accordingly, there is no basis on which the Court can interfere with the learned judge's discretion in utilising his case management powers under CPR 26.3(1)(a) in striking out the case as a

consequence of failing to comply with the Court's orders.

Case Name:

**Reuben Meade
v
Steven Fagen**

**[MNIMCVAP2020/0011]
(Montserrat)**

Date:

Thursday, 29th July 2021

Coram:

**The Hon. Dame Janice M. Pereira, DBE,
Chief Justice
The Hon. Mr. Mario Michel, Justice of
Appeal
The Hon. Mr. Darshan Ramdhani,
Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. Warren Cassell

Respondent:

In person

Issues:

**Magisterial appeal – Restraining order
made under Family (Protection Against
Domestic Violence) Act Cap. 5.05 –
Jurisdiction – Whether magistrate had
jurisdiction to grant restraining orders –
Scope of Family Protection Against
Domestic Violence Act**

Type of order:

Oral Decision

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The appeal is allowed.

2. The orders of the learned magistrate are set aside.
3. No order as to costs.

Reason:

This is an appeal against an order of a magistrate made on 5th November 2020 wherein the magistrate ordered that the appellant to this appeal. Mr. Reuben Meade is restrained from abusing the respondent and his wife and daughter whether physically, mentally, emotionally or otherwise and further prohibited him from doing a number of things, effectively several restraining orders purported to have been made by the magistrate against the appellant. The magistrate purported to make these orders under the Family Protection Against Domestic Violence Act of Montserrat No. 9 of 1998.

The appellant has appealed against the order of the magistrate on the basis that the magistrate had no jurisdiction to make the orders that she made and that the orders ought therefore be set aside by this Court.

The legislation under which the magistrate purported to make the orders, as I previously indicated is the Family Protection Against Domestic Violence Act of Montserrat No. 9 of 1998 and the long title to the act makes it abundantly clear what this act is about, it says that it is an act to provide protection in cases involving domestic violence and for matters connected therewith. A magistrate has no general power to make any order that he or she pleases. A magistrate can only make such orders as is permitted by legislation.

The power to make restraining orders is power which lies in the High Court except when specific legislation authorises the Magistrate to make orders by way of injunction and such legislation, the Family Protection Against Domestic Violence Act is such legislation. However, as indicated it is legislation which has a specific remit in terms of providing protection against cases involving domestic violence and for matters connected therewith. It is abundantly clear that this case is not such a case. The legislation has a definition section which clearly indicates who are the people who can apply for and obtain such orders. So that for instance a 'prescribed person' is defined as a 'spouse of the respondent, a parent or a child or dependent of that person'. These are the persons who can make applications for orders under the Act. The Act also makes provisions for orders to be made on behalf of children and who can make such orders, on behalf of children. It also makes provision for orders to be made by other persons, but in relation to persons who are in the familial situations covered by the Act.

There is nothing on the facts which were before the Court which indicated any relationship between the appellant and the respondent such as to attract the jurisdiction under the Act. The magistrate simply had no jurisdiction to make the orders that she did. This Court is therefore dutybound to allow the appeal and set aside the orders made by the magistrate.

Case Name:	St. Augustine Primary School v Evelyn Gibson [MNILTAP2019/0003] (Montserrat)				
Date:	Thursday, 29th July 2021				
Coram:	The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Darshan Ramdhani, Justice of Appeal [Ag.]				
Appearances:	<table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; padding-right: 20px;">Appellant:</td> <td>Mr. Jean Kelsick</td> </tr> <tr> <td style="vertical-align: top; padding-right: 20px;">Respondent:</td> <td>Mr. Warren Cassell</td> </tr> </table>	Appellant:	Mr. Jean Kelsick	Respondent:	Mr. Warren Cassell
Appellant:	Mr. Jean Kelsick				
Respondent:	Mr. Warren Cassell				
Issues:	Employment law – Labour Tribunal – Jurisdiction –Labour Code of Monserrat – Section 24 of Labour Code – Whether the Labour Tribunal was properly constituted pursuant to section 24 of the Labour Code and thereby had jurisdiction to hear and determine the matter – Whether rules of procedure permit Labour Tribunal to be consisted of three members as opposed to seven members pursuant to section 24				
Type of order:	Oral judgment				
Result/Order:	IT IS HEREBY ORDERED THAT: 1. The order made by the Labour Tribunal on 20th March 2019 is quashed on the basis that when the Tribunal made its order, it was not properly constituted in accordance with section 24 of the Labour Code of Montserrat.				

2. The matter is accordingly remitted for hearing and determination by a properly constituted Labour Tribunal.

3. There shall be no order as to costs.

Reason:

The court was of the view that the order made by the Labour Tribunal on 20th March 2019 ought to be quashed on the basis that the tribunal which consisted of a three-member panel had no jurisdiction to hear the matter since it was not properly constituted accordance with section 24 of the Labour Code of Montserrat which stipulates that the panel should consists of seven members; namely 3 members representing the interests of employers; 3 members representing the interests of employees and the Chief Magistrate as Chairperson on the Tribunal. The matter was accordingly remitted to the for hearing and determination before a properly constituted Labour Tribunal.