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Litigant ‘Restrained’ from Instituting Any Legal Proceedings

On 26 July 2021, the Federal Court made an order restraining a litigant from instituting any further legal proceedings against a defendant concerning the subject matter of a claim.

Partner SM Shanmugam (together with associate Shona Anne Thomas) acted as counsel for the defendant at the Federal Court.

The litigant commenced three separate suits against the defendant over the course of 15 years. The claim concerned contractual obligations and provisions and applicability of the Consumer Protection Act 1999. In the first suit, the High Court dismissed the litigant’s claim and found, among others, he was “*the author of his own misfortune*”. In the second suit, the litigant’s claim was struck out for being *res judicata*. In the third suit, the litigant’s claim was dismissed by the court of first instance. In each suit, the litigant exhausted the appeal process up to the apex court but was ultimately unsuccessful.

Having exhausted the appeal process for the third suit, the litigant filed an application for the Court of Appeal to review its own decision. This was dismissed as the matter lacked any limited and/or exceptional circumstances.

The litigant then filed a motion for leave to appeal at the Federal Court pursuant to s 96 (a) of the Courts of Judicature Act 1964 and proposed several questions of law. The defendant applied to strike out the litigant’s motion and sought an order for the litigant to be declared a vexatious litigant.¹

The defendant, among others, submitted that the litigant had habitually and persistently instituted legal proceedings against the defendant concerning the same subject matter.² It is a blatant abuse of the court’s process to re-litigate facts and issues adjudged and as such, imperative for the litigant to be restrained

¹ Courts of Judicature Act 1964, s 25(2) and Schedule (Article 17)
² Courts of Judicature Act 1964, Schedule (Article 17)

from instituting further legal proceedings against the defendant. The Federal Court, in a unanimous decision, struck out the litigant's motion with costs and granted an order restraining the defendant from instituting any further legal proceedings against the defendant concerning the same subject matter of the three suits without leave of court.

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