

JAMAICA

IN THE COURT OF APPEAL

SUPREME COURT CIVIL APPEAL NO: 40/2008

MOTION NO. 13/08

**BEFORE: THE HON. MR. JUSTICE PANTON, P.
THE HON. MR. JUSTICE COOKE, J.A.
THE HON. MR. JUSTICE DUKHARAN, J.A. (Ag.)**

BETWEEN	NATIONAL COMMERCIAL BANK JAMAICA LIMITED	APPLICANT
AND	OLINT CORP LIMITED	RESPONDENT

**B. St. Michael Hylton, Q.C., and Miss Carlene Larmond, instructed by
Michael Hylton & Associates for applicant.**

**Gordon Robinson, Mrs. Georgia Gibson-Henlin, instructed by Nunes,
Scholefield, DeLeon & Co., for respondent**

28th July 2008

ORAL JUDGMENT

PANTON, P.

1. On July 18, 2008, this Court ordered as follows:

"Appeal allowed. Interlocutory injunctions granted as
prayed until the trial of the action.

Appellant to give the usual undertaking as to damages.

Counter-notice of appeal dismissed.

Speedy trial ordered.

Costs to the appellant to be agreed or taxed."

2. By notice of motion dated the 21st July, 2008, the applicant now seeks leave to appeal to Her Majesty in Council in respect of that order. The ground on which this application is based is stated thus on page two of the bundle:

"pursuant to section 110(2)(a) of the Constitution of Jamaica the questions involved in the appeal are of exceptional general or public importance and it is desirable in the public interest that the said questions be submitted by way of further appeal to Her Majesty in Council."

3. Section 110(2) of the Constitution provides as follows -

"An appeal shall lie from decisions of the Court of Appeal to Her Majesty in Council with the leave of the Court of Appeal in the following cases -

(a) where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council ..."

4. Having read the submissions, and listened to counsel, we have no doubt that the matter which is the subject of the suit may well be of general importance to the public. To say that it is exceptional, we would not go that far at this stage. However, we are of the view that what is most desirable is that the suit ought to be tried in the Supreme Court as early as possible, in keeping with our earlier order for a speedy trial.

5. The instant application seems, with the greatest respect, to be aimed at short-circuiting the trial. That, we cannot countenance as it is important that the

issues raised in the suit be tried quickly. We would urge the parties to seek audience with the Registrar of the Supreme Court, or the Chief Justice if necessary, to make the necessary arrangements to give effect to the order for a speedy trial. That is what ought to be done.

6. Accordingly, the motion is denied. Costs to the respondent are to be agreed or taxed.

COOKE, J.A.

I agree.

DUKHARAN, J.A. (Ag.)

I agree.