

BEFORE THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

ELAT 91/12

In the matter of:

Kumaraswamy Bulramaya & Ors

Appellants

v/s

The District Council of Flacq

Respondent

In the presence of:

Societe M. R. Rambarran Bros

Co-respondent

RULING

1. At the sitting of the 19th July 2018 of this case, Counsel appearing for the co-respondent, Mr. Neil Pillay sought to challenge the Bench, more precisely the Chairperson, by stating that he wished to raise a point in law *"which is challenging you as the President of this Tribunal on the ground of bias."* He gave no particulars at this stage but chose to call his client, the co-respondent's representative, Mr. Said Rambarran. The latter stated to a question put by Counsel as to remarks made by the President of the Tribunal on a previous occasion, *"Seki li ti dire nous, nous bann avocat coter, lerala monn dire be mo*

pan gagn contact ar li. Lerla li dire be nous pas pe gagn contact avec nous avocat, ti dire bisin fini gagn contact ek zot pou faire zot koner qui date pou revini la prochaine fois."

2. Following this statement, Mr. Pillay submitted the following, *"Then I regard that these remarks question my professional integrity because it tends to suggest that Counsel cannot be found and that Counsel is unprofessional, that is why I consider these comments to be of a personal nature towards me and that is why I am going to, I'm challenging the Tribunal from appearing... You, Madam President... from appearing in this matter because you are calling my professional integrity into question."*
3. Counsel for the Appellant and for the Respondent chose not to submit on account of not being privy to any exchange between the Bench and Mr. Rambarran when the case was called previously. We have duly considered the submission of Mr. Pillay. We fail to see from the statement made by Mr. Rambarran on record in what way it supports the contention of bias by the Chairperson. Neither were particulars of the ground for challenge provided nor was any motion made. The reasons for challenge appear to have come as an afterthought, after Mr. Ramabarran was called to the witness box. The words *"I regard that these remarks question my professional integrity"* in the submissions of counsel seem to suggest that it is his personal opinion and yet there is nothing on record of any submission of bias by the Chairperson. In any event, the Tribunal, does not appear in a case. The Tribunal hears a case and the Chairperson chairs it. The point is accordingly set aside and the case is to proceed on its merits.

Ruling delivered 24th August 2018 by

Mrs. J. RAMFUL
Vice Chairperson

Dr. B. Motah
Assessor

Mr. H. Meeto
Assessor