1. Recusal from hearing a matter is not a decision lightly taken by a Judge. But it is not uncommon. Such a decision for a Judge to “stand down” from deliberating on a matter can be made for a variety of reasons such as where the judge may have some direct interest to the case that makes it too difficult to be, or seem to be, an impartial arbiter. The purpose of recusal is to preserve the impartiality of the judicial process, bolster the confidence of society in the integrity of the administration of justice and in the Courts as the bastions of the rule of
law. There is no shame in either entertaining the question to recuse or in actually stepping down. As Judges despite what we may perceive to be an inconvenience to another Judge to fill the breach so to speak we must step down in the interests of preserving that public trust and confidence in the judicial process. In doing so we give true meaning to the right to be tried by an independent and impartial tribunal an integral part of the principles of fundamental justice guaranteed by the Constitution of Trinidad and Tobago. Without that confidence the system cannot command the respect and acceptance that are essential to its effective operation. For this reason there are a number of decisions in the Commonwealth which suggest that in matters of recusal “if in doubt- out”\(^1\). No less than Lord Devlin commented:

“The social service which the judge renders to the community is the removal of a sense of injustice. To perform this service the essential quality which he needs is impartiality and next after that the appearance of impartiality. I put impartiality before the appearance of it simply because without the reality the appearance would not endure. In truth within the context of service to the community the appearance is the more important of the two. The judge who gives the right judgment while appearing not to do so may be thrice blessed in heaven but on earth he is no use at all.”\(^2\)

2. Lord Hope reminded us when he cited a paragraph from Sellar v Highland Railway Co 1919 S.C. HL 19 at pp 20-21 that “The importance of preserving the administration of justice from anything which can even by remote imagination infer a bias of interest in the judge

\(^1\) Judicial Recusal: Principle, Process and Problems, Grant Hammond

\(^2\) See also R. v. Bow Street Metropolitan Stipendiary Magistrate, ex p. Pinochet Ugarte (No. 2) [2000] 1 A.C. 119 per Lord Nolan “in any case where the impartiality of a judge is in order the appearance of the matter is just as important as the reality” per Lord Hope “One of the cornerstones of our legal system is the impartiality of the tribunals by which justice is administered”. Lord Bingham of Cornhill in Davidson v Scottish Ministers [2004] UKHL 34:“It has ... been accepted for many years that justice must not only be done but must also be seen to be done. In maintaining the confidence of the parties and the public in the integrity of the judicial process it is necessary that judicial tribunals should be independent and impartial and also that they should appear to be so.” Chief Justice A. Barak, “The Role of the Supreme Court in a Democracy” (1998) 3 Israel Studies 6 noted that for a Judge “judicial independence and lack of bias are the backbone of his existence.”
upon whom falls the solemn duty of interpreting the law is so grave that any small inconvenience experienced in its preservation may be cheerfully endured.”

3. Judicial Codes of Conduct such as The Bangalore Principles of Judicial Conduct 2001 and our own draft Code of Conduct underscores that judges must be and should appear to be impartial with respect to their decisions and in the process of their decision-making. A judge shall not only perform his or her judicial duties without favour, bias or prejudice but shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

4. In recusals, the Judge is engaged therefore in a sensitive exercise to preserve the dignity of the judicial office, the requirements of due process and the fundamental principle of the rule of law. However equally enjoined in that sensitive exercise is the Constitutional duty of the judge to administer justice impartially “to all manner of people without fear or favour affection or ill will” a fundamental pillar of the judicial process. Justice Nelson of the Caribbean Court of Justice referred to it in his insightful treatise as “the duty to sit”. In the recent decision of Muir v Commissioner of Inland Revenue [2007] 3 NZLR 495 the New Zealand Court of Appeal stated:

“the requirement of independence and impartiality of a judge is counterbalanced by the judge’s duty to sit, at least where grounds for disqualification do not exist in fact or in law the duty in itself helps protect judicial independence against manoeuvring by parties hoping to improve their chances of having a given matter determined by a particular judge or to gain forensic or strategic advantages through delay or interruption to the proceedings. As Mason J emphasised in JRL ex p CJL (1986) 161 CLR 342. “it is equally important the judicial officers discharge their duty to sit and do not by acceding too readily to suggestion of appearance of bias encourage parties to believe that by seeking

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3 Section 107 and First schedule of the Constitution
the disqualification of a judge, they will have their case tried by someone thought to be more likely to decide the case in their favour.”

5. Justice Nelson observed:

A judge who has to decide an issue of self recusal has to do a balancing exercise. On the one hand, the judge must consider that self-recusal aims at maintaining the appearance of impartiality and instilling public confidence in the administration of justice. On the other hand, a judge has a duty to sit in the cases assigned to him or her and may only refuse to hear a case for an extremely good reason. In Simonson v General Motors Corporation U.S.D.C. P.425 R. Supp. 574, 578 (1978):

“Recusal and reassignment is not a matter to be lightly undertaken by a district judge. While, in proper cases, we have a duty to recuse ourselves, in cases such as the one before us, we have concomitant obligation not to recuse ourselves; absent valid reason for recusal, there remains what has sometimes been termed a “duty to sit.” See, U.S. v Moore, supra at 772; Sperry Rand Corp. V Pentronix, Inc., supra, at 373.”

6. Recusal applications are fact specific. However interestingly, some recent cases in the Commonwealth and in the United States have thrown up fact scenarios in recusal applications on the grounds of apparent bias of the sitting judge (with facts that are much more extreme than the challenge being made in this case) where the courts have consistently underscored the judge’s right to sit. Lord Justice Sedly who disclosed that he was the President of the British Tinnitus Association and did not step down from an appeal in test cases about noise induced deafness in the textile industry\(^5\). Lady Crosgrove a member of the International Association of Jewish Lawyers and Jurists with a vocal pro Israel Association President, sitting on a petition of a Palestinian claiming asylum in the United Kingdom\(^6\). Justice Scalia attending a duck hunting trip together with Vice President Dick Cheney and the Judge robustly defending his decision not to recuse himself from hearing a case against

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the Vice President. At home, Magistrate Espinet, a member of the Morris Marshall Development Foundation alleged to be aligned to the political party the People’s National Movement (PNM) sitting on committal proceedings involving former Prime Minister Basdeo Panday. The duty to sit in those cases was not trumped by any real possibility of bias.

7. This tension between the duty to sit and the duty to preserve judicial independence and impartiality sets the stage for a recusal process which is open, transparent and fair: where decisions on recusal are made after careful thought and reflection; where the applications themselves are made bona fide, properly formulated, coherent and well grounded on established principles of law. The fact that it is a challenge going to the fundamental and solemn duty of a judge of the Supreme Court, the occasion should not be scandalised by improper, spurious and baseless requests for recusal which will do nothing to inspire confidence in the administration of justice. Such applications must not in itself be seen as an attempt to excite suspicion and mischief nor an attempt to ferret out information from the judge to make out a case for recusal.

8. Indeed to lightly treat the duty to sit is the very temptation which must be resisted and which highlights the condemnation of unfounded applications for recusal which will have the unintended consequence of embarrassing a judge rather than genuinely questioning his impartiality and integrity in the interest of the administration of justice. The Court of Appeal in Locabail reminds us that it “would be as wrong to yield to a tenuous or frivolous objection as he would to ignore an objection of substance”.

7 The test of bias in the United States is not the same as in the UK but see the treatment of the duty to sit in the controversial 22 page ruling of Justice Scalia Cheney v US District Court (2004) 124 S.Ct. 1391; 158 L.Ed.2d. 225 (March 18, 2004). It was made even more controversial by some extra judicial statement made by Scalia J at Amherst College on February 15, 2004 preceding his ruling: “This was a government issue. It’s acceptable practice to socialize with executive branch officials when there are not personal claims against them. That’s all I’m going to say for now. Quack, quack.” ( “Old MacDonald Had a Judge”, LA Times, February 17, 2004).

8 It was argued that Mr. Panday, the leader of the United National Congress (UNC) and the PNM were political enemies. Basdeo Panday, Oma Panday v Her Worship Ejenny Espinet; The Director of Public Prosecutions C.A.CIV.250/2009 and H.C.2265/2008

9 Locabail (U.K.) Ltd v Bayfield Properties Ltd [2000] Q.B. 451, CA
9. Ultimately therefore there is a presumption of impartiality on the part of the sitting judge and any application for recusal is not to be lightly made. It is a fundamental challenge and must be supported by evidence. The application must not be spurious to fanciful, lest the very making of the challenge will in itself do damage to the administration of justice which the very essence of a proper recusal is meant to prevent. Care must be exercised to prevent recusal hearings from being reduced, “into a side show”. Archie JA (as he then was) observed in Panday v Virgil:

“The proper point of departure is the presumption that judicial officers and other holders of high public office will be faithful to their oath to discharge their duties with impartiality and in accordance with the constitution. The onus of rebutting that presumption and demonstrating bias lies with the person alleging it. Mere suspicion of bias is not enough; a real possibility must be demonstrated on the available evidence.”

10. Recusal is a course which a Judge will only take on the basis of established principles and practices. Justice Nelson in his treatise “Judicial Recusal” has neatly summarised some of those principles in play established in our common law system:

“1) A judge should recuse himself whenever a fair-minded and informed observer would conclude that there was a real possibility or a real danger of bias on the part of the judge; see Porter v Magill [2002] 2 AC 357, 494 where the House of Lords approved

10 Civil Appeal Nos. 49, 50, 52 and 53 of 2007
12 Warner JA also stated the general principles of the duty to sit:
   (i) Ill-founded challenges to the bench are not to be entertained.
   (ii) Courts must be assiduous in upholding the impartiality of judges; the onus of establishing bias lies with the appellant.
   (iii) The impartiality of the decision maker [the Chief Magistrate] is to be presumed, but this presumption can be dislodged by cogent evidence.
dicta of Lord Phillips of Worth Matravers in In re Medicatments and Related Classes of Goods (No. 2) [2001] 1WLR 800.

2) A second principle is that although it is important that justice must be done, it is equally important that judicial officers discharge their duty to sit and do not accede too readily to suggestions of appearance of bias. In United States v Robert Cooley 1 F. 3d 985 [58] the U.S. Court of Appeals, Tenth Circuit put the principle this way:”... we have emphasized that “there is as much obligation for a judge not to recuse when there is no occasion to do so as there is for him to do so when there is””

3) The third principle is that the rules as to recusal were not intended to give litigants a veto power over sitting judges, or to provide a means of obtaining a judge of their choice: see U.S. v Robert Cooley (supra) at [49].

4) A fourth principle is that, if a judge recuses himself from a case, no judicial authority can lawfully order him to hear the case: see Consiglio v Consiglio 48 Conn. App. 654 (1998).

5) A fifth principle was expressed by the Constitutional Court of South Africa in President of the Republic of South Africa v South African Rugby Football Union 1999 (4) S.A. 147, 177 thus:

“... the reasonableness of the apprehension must be assessed in the light of the oath of office taken by the judges to administer justice without fear or favour; and their ability to carry out that oath by reason of their training and experience. It must be assumed that they can disabuse their minds of any irrelevant personal beliefs or predispositions.”

Yet this presumption which underpins the judicial superstructure is very easily displaced when a challenge of recusal is made.

6) Sixthly the reasonable person envisaged by the test for bias is an informed, right-minded member of the community with knowledge of the history and philosophy of the community.”
11. Archie JA endorsed a three step approach when considering applications for recusal:\(^{14}\):

- First, one must identify what it is said might lead a judicial officer to decide a case otherwise than strictly on its merits;
- Second, a logical connection between the matter/s and the feared deviation from impartiality has to be articulated;
- Third, an assessment must be made whether a fair-minded observer would conclude that there was a real possibility that the case would not be decided impartially.

“The test is one of possibility (capable of existing; real and not remote) and not probability (more likely than not)\(^{15}\). The words “fair-minded” and “informed” summarize the characteristics that are to be imputed to the hypothetical observer.”

**The Claimant’s application for recusal:**

12. I turn to the instant application of the Claimant seeking to have me step down from further hearing this matter made by letter dated 27\(^{th}\) September 2012, which came to my attention.

13. The reasons for the recusal were read into the record by Counsel for the Claimant as follows:

“1) In the Constitutional Motion parallel to the subject proceedings your Lordship accused our client of impropriety: ‘Indeed it was quite improper to make such a request having regard to the independent functions discharged by the Commission’ (paragraph 37 (g) of your judgment). This criticism of our client was and is irrelevant to any of the issues as set out at paragraph 48 of your judgment which arose for determination of her constitutional right to protection of the law. It is our client’s view as well as that of her Attorneys-at-Law that by this unwarranted criticism you have prejudiced yourself from further hearing the subject matter.

2) On a separate but related issue, your Lordship did not draw to Counsel’s attention at the commencement of the Trial that you are a Presidential appointee to the Mediation Board. This means that the President has implicit power to remove your Lordship

\(^{14}\) Panday v Virgil (ibid) see also Per Gleeson C.J.; Mc Hugh, Gummow and Hayne JJ @ para 8 Bender v The Official Trustee in Bankruptcy (2000) 205 CLR 337

\(^{15}\) op. cit. @ para 7
from membership and Chairmanship of the Board and to this extent it may appear that you are beholden to His Excellency.

3) Further, the Board comes under the purview of the Attorney General who is also a Defendant in the parallel Constitutional Motion. He is in a position to facilitate the Board in certain matters concerning the Board’s affairs. An example is the request made by the Board in or about December, 2011 for payment of financial benefits to Board Members.

4) Additionally, the recipients of such financial benefits should be required to make declarations to the Integrity Commission and so it may also appear that the Board would need to consult and be advised by the Integrity Commission on such declarations. It must be borne in mind that the Integrity Commission is the Defendant in the subject matter.

In our view the facts and surrounding circumstances of this case do nothing to bolster public confidence in the judicial system, the office of the Attorney General, the office of the President and the Integrity Commission (which already does not seem to have the public confidence) and may give the unpleasant impression that justice may not be done in the Judicial Review proceedings.”

14. I cannot lightly pass off my responsibility to a fellow judge unless there is a proper basis in law to do so. The fact that the Judge is the Chairman of a Mediation Board which is charged with the function of regulating the profession of mediation and generally the promotion of peaceful dispute resolution should cause no stir. Indeed I made the disclosure of my Chairmanship on the first day of hearing in March 2012 as well as the membership on the Board of the Claimant’s son. The Claimant consented to my hearing this matter.

15. I am not aware when the Claimant obtained the information and some of the matters raised in her letter, I would have thought would have easily been referenced by examining the appropriate legislation since I made my disclosure. For clarification and for the record:

(a) The Mediation Board is a body enacted by the Mediation Act 2004 (“the Act”). It is charged with the functions of, among other things, regulating the mediation profession. These functions are set out in section 5 of the Act.
(b) I have already disclosed that I am Chairman of the Board. If the Claimant took the time to read the Act one sees that I have been nominated to sit in that capacity by the Chief Justice who is the person responsible for my appointment. I sit as an ex officio member of the board. Other members are appointed by various entities and cover a wide cross section of society. See section 4 of the Act.

(c) I do not know the basis on which the Claimant alleges that the Mediation Board falls under the purview of the Attorney General. Indeed no instrument nor Gazette was produced to demonstrate this and Counsel was unable to direct me to any authority for saying this.

(d) No request for any stipend or any form of remuneration has been made for me or members of the Judiciary on the Board. My service on the Board is purely on a voluntary basis without reward. Indeed Counsel for the Claimant withdrew any allegation inferred or otherwise in the grounds of the letter that the Chairman was in receipt of or negotiating for a stipend as Chairman.

(e) A request was made for other members of the Board to receive an allowance which will assist them in the performance of their Board functions and in recognition of their dedicated time, service and commitment and the work of the Board in the development of mediation in this country. No board member to date is in receipt of any stipend, remuneration or honorarium for their service on the Board.

16. The first misstep of the Claimant is that the application for a recusal was made by way of a private and confidential letter addressed directly to the sitting judge. This is wholly inappropriate. One must be careful with direct correspondence as it may be interpreted as an attempt to intimidate a judge. That was not what was intended in this case having understood counsel’s explanation who repeatedly repeated his respect for the Court. The second misstep is that it was copied not to the parties in the case but to the Chief Justice who has absolutely no interest in this application or this matter. It is trite law and it was conceded by attorney for the Claimant that decisions on recusal are to be made by the sitting judge “to the best of his ability”. There was no basis in law or fact to copy the Chief Justice not even as a matter of courtesy. Counsel must tread very careful in handling matters such as these.
17. Procedurally unless there is some sensitive matter which both Counsel wish to seek an audience with the Judge in chambers, applications such as these, because of the nature of the challenge and the solemnity of the occasion should be formally made in the presence of all the parties preferably by way of an inter partes application supported by an affidavit setting out the clear grounds for the challenge and the evidence being used to support it.

18. Quite apart from the procedure, the letter in this case does not make it clear on what ground the challenge for recusal was being made. It was only in oral submissions that counsel made it clear that the challenge was on apparent bias. If I understand the objection in a nutshell it is that although counsel has confidence in the court in its ability to deliver a just and impartial verdict it is the suspicious man in the street who may question the decision of the court based on the matters set out in the letter. In addition to the matters set out in the letter counsel has “put into the pot” so to speak a “gag order” which I had imposed earlier in the proceedings and which I subsequently lifted, overruling the Defendant’s objections. He contends that “This society is unduly suspicious and no matter if everything is above board and is black and white our society will question it.” The test of apparent bias is therefore that of the fictitious suspicious bystander looking on at these proceedings.

19. This simply is not the test endorsed by the Court of Appeal to determine whether there is apparent bias of the presiding Judge. Archie JA was he then was in Panday v Virgil\textsuperscript{16} identified the attributes of the fair minded observer.

“The fair-minded observer is neither complacent nor unduly sensitive or suspicious when he examines the facts that he can look at\textsuperscript{17}. That is a critical caveat in a society such as ours that is deeply polarized and where conspiracy theories abound. …...The fair-minded observer is not an insider (i.e. another member of the same tribunal system). Otherwise he would run the risk of having the insider’s blindness to the faults that outsiders can so easily see\textsuperscript{18}. Although he will have a general appreciation of the legal professional culture and behavioural norms, he may not so readily take

\textsuperscript{16} ibid
\textsuperscript{17} Johnson v Johnson (2000) 201 CLR 488, 509 (para. 53)
\textsuperscript{18} Gillies v Secretary of State for Works and Pensions [2006] UKHL 2 per Baroness Hale of Richmond @ para 39.
for granted, as judicial officers might, a judicial officer’s ability to compartmentalize his mind and ignore extraneous information or circumstances. .....The informed observer is a member of the community in which the case arose and will possess an awareness of local issues gained from the experience of having lived in that society. He will be aware of the social (and political) reality that forms the backdrop to the case19….It follows that the informed observer, if he is also fair-minded, will choose his sources of information with care…It is to be assumed too that he is able when exercising his judgment to decide what is relevant and what is irrelevant, and that he is able when exercising his judgment to decide what weight should be given to the facts that are relevant.”20 He will also make use of all the available and relevant information”

20. In the recent Court of Appeal judgment of Panday v Espinet21, Mendonca JA addressed the argument of a suspicious society in this way which deserves repeating:

“Counsel for the Appellants submitted that prevailing conditions in the country take precedence in determining the test. The test will therefore apply differently if local considerations are different. In other words, in this jurisdiction, it is appropriate to regard the observer as suspicious so that he is to be treated as being suspicious and not as not unduly suspicious.

42. I however do not agree. Among the characteristics attributed to the fair-minded observer, as I have already mentioned, is that he is not unduly sensitive or suspicious. To accept the submission that he should be treated otherwise would go against well established authority. In Panday v Virgil, a decision which is binding on this Court, Archie, J.A. (as he then was) saw the attribute that the observer is not unduly suspicious as a “critical caveat in a society such as ours that is deeply polarized and where conspiracy theories are abound”. I too think it is a critical caveat, not because it serves to give the observer immunity against a

19 R v S (R.D.) 151 DLR (4th) 193 per Cory J.
20 Gillies v Secretary of State (supra) per Lord Hope of Craighead @ para. 17
21 ibid
symptom that is rampant in this jurisdiction, but because it is a natural corollary of the other characteristics of the observer.

43. I do not think that we as a people have any greater tendency to be more suspicious than anyone else. If we tend to be so on occasion it often goes hand in hand with the lack of knowledge of relevant information. The fair-minded observer is however informed. As I have mentioned, he can distinguished what is relevant and what is not. He will take the time to inform himself of all matters that are relevant and are able to determine the weight to be given to those matters that is relevant. So informed, I do not think that the average person in this jurisdiction would tend to be suspicious or overly so. Consistent with the hypothetical person he would not be unduly suspicious. Suspicion also does not sit well with someone who is fair-minded. There are obvious Difficulties in accepting that someone who is fair-minded should be treated as someone who is not unduly suspicious.

45. The question therefore is whether the fair-minded and informed observer having considered the facts would conclude that there is/was a real possibility the Magistrate was or would be biased.”

21. Applying the principles enunciated above I must then ask whether the circumstances as advanced would lead a fair-minded and informed observer to conclude that there is a real possibility that I would be biased in hearing this matter.

- Firstly there is nothing in the statement made by me in the judgment in the parallel constitutional law proceedings which remotely suggests that I have prejudged the issues which are alive in the judicial review application now before me. Counsel failed to identify any issue in the judicial review application which I would have prejudged based on that statement. In any event, the alleged criticism of the Claimant was blown wholly out of proportion from the context of the statement made. In Locabail\textsuperscript{22} the Court of Appeal said “The mere fact that a judge, earlier in the same case or in a previous case, had commented adversely on a party or witness, or found

\textsuperscript{22} ibid
the evidence of a party or witness to be unreliable, would not without more found a sustainable objection.” I will not rehearse what I said or what I meant to say in the parallel constitutional proceedings as it is the subject of an appeal and any issue with that statement should be taken up there in the proper forum.

- Second the allegation that I am somehow “behind to the President”, whatever that may mean, as a result of my appointment to the Mediation Board and so cannot impartially try this case simply makes no sense. I cannot see how any fair minded observer can come to the conclusion that I am “behind to His Excellency” after being seized of the facts of my appointment at the behest of the Chief Justice and that in any event all Judges are appointed by the President. In any event the President is not a party to these proceedings and if there was any merit in that submission it should have found its way in the appeal before the Court of Appeal in those proceedings.

- Third the allegation that the Mediation Board falls under the purview of the Attorney General. I do not know if I should seriously deal with this as counsel when asked could produce neither evidence nor basis in fact or in law to make such a statement. If this was a ground for disqualification then is it to be suggested that I cannot sit on any case in which the Attorney General is named as a party? Or what of the numerous matters that I have dealt with routinely against the State in assault and battery cases, false imprisonment, judicial review where the legality of state action is under review? The Attorney General’s action is not under review in these proceedings. Even the official bystander will ask himself “what is the point?”

- The Claimant alleges that the recipient of financial benefits by members of the Mediation Board, excluding the secretary and Judicial officers of the Supreme Court, if ever they receive anything at all, shall be required to make declarations to the Integrity Commission. This is not a fact but a surmise or speculation. It is perhaps gratuitous advice being given to the Board. But again the fact that the sitting Judge is not in receipt of a stipend, nor allowance, his sitting on the Board is purely voluntary without reward, no other member is in receipt of a stipend or reward, they have been
sitting there for the promotion of mediation in this country without benefit, the officious bystander will ask what does that have to do with this case?

**Case management and Delay:**

22. Applications for recusal must be made promptly as soon as the reason for it is known. I am unaware of when this information came to the Claimant’s attention. It simply is not good enough to explain away the delay of such a significant challenge by saying that Counsel needed time to carefully consider the point. In *Locabail* the Court of Appeal commented:

“In either event it is highly desirable, if extra cost, delay and inconvenience are to be avoided, that the judge should stand down at the earliest possible stage, not waiting until the eve of the day of the hearing. Parties should not be confronted with a last-minute choice between adjournment and waiver of an otherwise valid objection.”

23. The fact is, these matters arose for consideration since the very first day of this case. Since then this case has been case managed to a trial. Further after the letter was written the Claimant filed an affidavit in compliance with my directions in the further management of this case. I have already ruled on several procedural applications one of which, an application to re amend the claim form to include a claim for bias which will go to the heart of one of the main issues in this case. To date I have been managing the extent to which evidence and submissions will be made on that point as a result of my decision made on that application. To now make this challenge days away from the trial is too late.

24. Counsel suggested that if I recuse then the entire matter must be heard de novo. Two days will be vacated. It will deprive other litigants of two days trial or an audience with this judge to manage cases or settle cases by active management or judicial settlement conference. To

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23 Justice Jamadar as he then was observed in *McNicholls v JLSC* that: “An application to ask a judge or recuse him or herself is a serious matter. It ought to be raised at the first opportunity. Failure to do so or in this case have resulted in the continuing involvement of the judge in the manner and the commitment of time and effort to the case.”
accede to this challenge would certainly lead to a waste of judicial and parties’ resources which is inimical to the overriding objective.

**Conclusion:**

25. The fact that a litigant may not want a particular judge to hear his or her case is no ground for a recusal. There is no basis to have the judge step down unless there are good grounds to demonstrate apparent bias. Challenges such as the one made here is premised on speculation and surmise and do not cross the bar. If I harboured any doubts, in accord with standard practice and proposition of law my doubt would have resolved itself in favour of recusal. But there is no basis for any reasonable doubt. I cannot burden my brothers or sisters with this case needlessly nor do the administration of justice more harm than good by recusing thereby setting back the clock on the law of recusals and proper case management principles.

26. The application is dismissed and I will hear counsel on the question of costs.

Dated this 11\textsuperscript{th} day of October 2012

Vasheist Kokaram
Judge