

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV2015-00229

BETWEEN

RYAN SINGH  
CHANDRA MATTHEW

Claimants

AND

WATER AND SEWERAGE AUTHORITY  
OF TRINIDAD AND TOBAGO

THE ATTORNEY GENERAL  
OF TRINIDAD AND TOBAGO

Defendants

Before the **Honourable Madam Justice Margaret Y. Mohammed**

Dated the 24<sup>th</sup> November, 2017

**APPEARANCES:**

Mr. Riad Ramsaran Attorney at law for the Claimant.

Mr. Rajiv Ricki Attorney at law for the First Defendant.

Ms. Monica Smith instructed by Mr. Brian Basdeo Attorneys at law for the Second Defendant.

## **RULING – EVIDENTIAL OBJECTIONS**

1. On the 14<sup>th</sup> July 2017, at the Pre-Trial review I deal with the evidential objections made by the parties. The Claimant having appealed certain aspects of my ruling I now set out my reasons for the parts which has been appealed.

### **Witness Statement of Ryan Singh**

2. Paragraph 8 – In the sentence *“These waters caused the soil, block work and concrete flooring to remain perpetually moist”* I struck out the words *“These waters caused “and “to”* on the basis that the witness is a lay person and was stating as a fact the cause for the soil, block work and concrete flooring to be perpetually moist. It was the witness’s opinion and or conclusion on a matter which was not within the witness’ expertise.

### **Witness Statement of Chandra Singh**

3. Paragraph 8 – In the sentence *“These waters caused the soil, block work and concrete flooring to remain perpetually moist”* I struck out the words *“These waters caused “ and “to”* on the basis that the witness is a lay person and was stating as a fact the cause for the soil, block work and concrete flooring to be perpetually moist. It was the witness’s opinion and or conclusion on a matter which was not within the witness’ expertise.

### **Witness Statement of Dereck Bosland**

4. Paragraph 5 – the words *“The road / area forms part of the Talparo region, an area which is prone to land slippage falling within the landslip belt*

*stretching diagonally across Trinidad. The soil is predominantly clay which is classified as a swelling soil prone to changes during different weather condition*” were objected to by the Claimant on the basis that the witness was not an expert permitted under Part 33 and there was no foundation for the finding. I did not strike out the said words since I was satisfied that at paragraphs 1 to 3 of the witness statement there was a proper foundation for the witness to give this evidence . I also was of the view that the witness as the District Engineer, St George East district in the Ministry of Works and Transport, Highways Division since May 2011 was familiar with the area and could speak to matters which he was aware of. I did not see this witness as an expert under Part 33 but he was a professional witness for the Second Defendant who actually worked in the area in dispute.

5. Photographs exhibited as “D.B 8” were permitted since I was satisfied from the Hearsay Notice filed by the Second Defendant that it complied with Rule 30.6(a) (iv) and that the persons who took the photographs cannot reasonably be expected to recollect the matters relevant to the accuracy of the said photographs.
6. Exhibit “D. B. 2” was permitted since I was satisfied that matters in the memoranda were pleaded at paragraph 17 of the Second Defendant’s Defence.

**Witness Statement of Vincent Jaggernaut**

7. Paragraph 14 the words *“On these site visits I observed that there was no proper drainage around the Claimants’ house nor was there any guttering to effectively direct excess surface water away from the property”* were

permitted since I did not consider him to be an expert and I was satisfied that this was the witness' observation. The proper foundation was laid at paragraphs 1 to 4 of the witness statement for him to give this evidence. I was also of the view that this evidence was relevant to paragraph 20 of the Second Defendant's Defence.

**Margaret Y Mohammed**  
**Judge**