

Constitutional Court Ruling No. 12/2565 (2022)

Supreme Court

Applicant

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Respondent

Constitution, section 26 and section 189;

Civil Procedure Code, section 247, section 248 and section 249;

Section 247, section 248 and section 249 of the Civil Procedure Code provided rules, procedures and conditions for submitting an appeal to the Supreme Court with respect to a judgment or order of the Court of Appeal. Section 247 provided that an appeal to the Supreme Court against a judgment or order of the Court of Appeals could be submitted when the Supreme Court granted leave. Section 248 provided that the consideration and decision on an application under section 247 had to be done by a bench of judges appointed by the President of the Supreme Court. Section 249 provided that the Supreme Court could grant leave to appeal to the Supreme Court when it was found that the question in the appeal was an important question that should be decided. The provisions reflected a shift in principle of appeal to the Supreme Court from a rights system to a leave system to promote efficiency in the trial and adjudication of cases by the Supreme Court, and to truly deliver fairness to all relevant parties expeditiously. Parties had equal rights to submit an appeal to the Supreme Court regardless of economic standing and disputed value. They could submit an application for leave to appeal to the Supreme Court on both questions of fact and questions of law subject to the consideration of the court. Such provision was in accordance with the principle of proportionality and was not contrary to the rule of law. The provision did not disproportionately increase a burden or restrict a right or liberty of a person. There was no prejudice to human dignity. The provision was generally applicable and was not directed at any particular case or person. Hence, the provision was neither contrary to nor inconsistent with section 26 of the Constitution. The provision of law which provided that a bench of justices appointed by the President of the Supreme Court to consider and decide on an application for leave to appeal to the Supreme Court under section 248 was merely an appointment of a bench of justices in the Supreme Court to screen cases containing important questions which should be decided by the Supreme Court. The provision did not establish a new court or procedure for trial and adjudication in lieu of the Supreme Court. Thus, the provision was neither contrary to nor inconsistent with section 189 of the Constitution.