IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

Not Reportable
Case No: A111/2026

In the matter between:

WADE SEALE	Appellant
and	
AURORA PLACE BODY CORPORATE	First Respondent
COMMUNITY SCHEMES OMBUD SERVICE	Second Respondent

Coram:	**ADAMS, AJ (RALARALA, J concurring)**
Heard on:	**7 August 2026**
Delivered on:	**31 August 2026**

Summary: Sectional title - Body corporate - Prepaid water meter - Liability for repair and replacement - Prescribed management rule 29 of regulations under Sectional Titles Schemes Management Act 8 of 2011 - Rule 29(3) governing separate meters measuring consumption and expressly referring to installation and maintenance - Prepaid meters controlling supply specifically governed by rule 29(4), which contains no corresponding

maintenance obligation - Resolution authorising installation of prepaid metering system not imposing continuing liability upon body corporate for future repairs or replacement after expiry of warranty - No other rule, agreement or legal basis establishing such liability - Community Schemes Ombud Service Act 9 of 2011, s57 permitting appeal only on question of law - Adjudicator having failed expressly to interpret rule 29(3), but ultimate dismissal of owner's claim legally correct, since appeal lies against order and not reasons - Application genuinely raising interpretive issue and therefore not frivolous, though legally misconceived - Appeal dismissed with no order as to costs.

ORDER

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1. The appeal is dismissed.
2. There is no order as to costs.

JUDGMENT

ADAMS, AJ:

Introduction and background

[1] This appeal concerns an adjudication order made pursuant to section 39 of the Community Schemes Ombud Service Act 9 of 2011 ("the CSOS Act"). Section 57 of the Act affords an applicant, an association or any affected person who is dissatisfied with an adjudicator's order a right of appeal to the High Court, but only on a question of law.

[2] The appellant, Wade Seale, is the registered owner of unit 4[...] in the Aurora Place sectional title scheme situated in Belhar, Cape Town. He was the applicant in the proceedings before the Community Schemes Ombud Service.

[3] The first respondent is the Aurora Place Body Corporate ("the body

corporate"), established in terms of section 2 of the Sectional Titles Schemes Management Act 8 of 2011 ("the STSMA"). It is also a community scheme as defined in the CSOS Act. The appellant was a member of the body corporate by virtue of his ownership of unit 4[...] at all relevant times.

[4] The second respondent is the Community Schemes Ombud Service ("CSOS"), a juristic person established in terms of s 3 of the CSOS Act. Among its statutory functions is the provision of a dispute-resolution service for community schemes.

[5] Neither the first nor the second respondent participated in the appeal. The appeal accordingly proceeded unopposed. Their non-participation does not, however, relieve the appellant of the burden of establishing that the appeal raises a question of law and that the adjudication order is legally incorrect.

[6] The dispute concerns responsibility for the repair and replacement of the prepaid water meter serving the appellant's section. Although the amount directly in issue is modest, the appeal raises a question of some significance concerning the proper interpretation and application of prescribed management rule 29, contained in Annexure 1 to the Regulations promulgated under the STSMA.

[7] Two principal issues arise for determination. The first is whether the appeal raises a question of law as contemplated in section 57 of the CSOS Act. The second is whether prescribed management rule 29, properly interpreted and considered in the context of the rule as a whole, imposes upon a body corporate an unconditional and continuing obligation to maintain, repair and replace a prepaid water meter after its installation, irrespective of the terms of the resolution adopted by the members and the arrangements governing responsibility for such meters within the scheme.

[8] Before considering those questions, it is necessary to set out the factual background and the proceedings before the adjudicator.

[9] During 2025, the appellant lodged an application for dispute resolution with CSOS under section 38 of the CSOS Act. The relief claimed was framed as financial

relief under s 39(1)(e) of the Act which permits an adjudicator to grant an order for the payment or repayment of a contribution or any other amount.

[10] In substance, the appellant sought orders directing the body corporate:

(a) to install a replacement prepaid water meter for unit 4[...]; and
(b) to reimburse him in the amount of R515,12, together with interest, being the cost of a replacement meter keypad purchased by him during 2022.

[11] Before the adjudicator, the appellant complained that the trustees had failed to provide a satisfactory legal basis for requiring him to bear the cost of replacing the prepaid water meter serving his section. He maintained that the resolutions and practices upon which the first respondent relied either could not be produced or did not support the position adopted by it.

[12] The appellant founded his claim principally upon prescribed management rule 29(3). He contended that the rule required the body corporate both to install and to maintain separate water meters and that the cost of repairing or replacing a defective meter could not lawfully be imposed upon an individual owner.

[13] In answer to the application, the first respondent's case before the adjudicator was that, following the expiry of the applicable warranty, individual owners were responsible for the maintenance, repair and replacement of the prepaid meters serving their units. The first respondent denied liability for either the replacement meter or the keypad. It relied upon the circumstances in which the prepaid metering system had been introduced and upon what it described as the established practice within the scheme.

[14] In support of that position, the first respondent referred to a special general meeting held on 24 November 2018, at which the proposed introduction of prepaid water meters was discussed, and to an annual general meeting held on 23 February 2019. The minutes of the latter meeting recorded:

> *"The pre-paid water meters were discussed. The trustees obtained three quotations. The quotations were discussed with the owners, and the trustees were directed to*

finalise the pre-paid [there is a word missing here] for the body corporate. The trustees must look at appointing STSS at an 8% excl. VAT vending rate."

[15] The prepaid meters were subsequently installed during June 2020, including the meter serving unit 4[...]. The initial purchase and installation costs were paid from the body corporate's reserve fund. According to the body corporate, had the reserve fund been insufficient, a special levy would have been required from the members.

[16] The first respondent's position before the adjudicator was that the meters carried a 12-month warranty. Once the warranty expired, individual owners became responsible for the maintenance, repair and replacement of the meters serving their respective sections. Owners could, if they wished, obtain maintenance plans covering those expenses.

[17] The first respondent also relied upon confirmation received from its insurer on 4 March 2025 that the applicable policy did not cover wear and tear, gradual deterioration or ordinary maintenance, although it provided cover for damage caused by certain sudden and unforeseen events. In addition, the first respondent relied upon correspondence which, it contended, demonstrated that the appellant had previously accepted responsibility for replacing the meter.

[18] On 3 April 2024, the first respondent's meter service provider, Enbaya, informed the appellant that the meter serving his section had been bypassed and furnished him with an invoice and quotation for its replacement. A reminder followed on 2 July 2024.

[19] On 15 August 2024, the appellant replied that he would attend to the matter when afforded an opportunity to do so. In correspondence dated 12 September 2024, he referred to the need to "still install a water meter". On 13 March 2025, he requested the technical specifications of the meter.

[20] Notices concerning responsibility for prepaid meters were sent to owners generally on 24 January 2025 and specifically to the appellant on 29 January 2025. When the appellant did not replace the meter, the body corporate instructed its

managing agent on 17 February 2025 to debit the cost of a new meter to his levy account and to credit the service provider accordingly.

[21] The first respondent maintained that this was consistent with the manner in which similar cases had been dealt with within the scheme. Other owners had paid for the replacement of meters serving their sections, either directly or by arrangement with the body corporate.

[22] The appellant disputed that the established practice within the scheme could determine the issue. He contended that the resolution authorising the installation of the prepaid meters necessarily engaged the body corporate's obligation both to install and to maintain them.

[23] In his submission, responsibility for maintaining and replacing the meters could not be transferred to individual owners merely because the resolution did not expressly address those matters. Any resolution or practice adopted by the body corporate had to be consistent with the STSMA and the prescribed management rules.

Proceedings before the adjudicator

[24] The dispute was referred to conciliation in terms of s 47 of the CSOS Act. Conciliation was unsuccessful and a certificate of non-resolution was issued on 27 August 2025.

[25] The matter was thereafter referred to adjudication in terms of s 48 of the Act and allocated to the adjudicator on 11 February 2026. The adjudication was conducted on the papers on 12 April 2026, in accordance with the CSOS Consolidated Practice Directive 1 of 2025. Neither party requested an oral hearing.

[26] The adjudicator approached the dispute principally as one requiring the assessment of evidence on a balance of probabilities. Relying upon Pillay v Krishna and Another 1946 AD 946, she held that the appellant bore the onus of establishing his entitlement to the relief claimed.

[27] The adjudicator accepted that the first respondent had furnished a comprehensive explanation of the circumstances in which the prepaid meters had been installed and had substantiated that account by producing the minutes of the relevant meetings. She found that the members had directed the trustees at the annual general meeting held on 23 February 2019 to finalise the introduction of the prepaid metering system. She further recorded the body corporate's position that the cost of maintaining or replacing a meter after expiry of its warranty rested with the owner of the section concerned.

[28] By contrast, the adjudicator found that the appellant had not produced sufficient evidence to establish his claim and had advanced no more than his own explanation for the relief sought. The adjudicator relied upon s 7(1) of the STSMA, which provides that the functions and powers of a body corporate must, subject to the Act and the rules, be performed and exercised by its trustees, subject to any restriction imposed or direction given at a general meeting of owners. She concluded that the trustees had acted within the scope of their statutory powers and duties and that the appellant had failed to establish his claim on a balance of probabilities.

[29] On 15 April 2026, the adjudicator dismissed the application under s 53(1)(a) of the CSOS Act as "frivolous, misconceived and without substance". No order was made as to costs. The appellant, feeling aggrieved with the adjudication order, instituted the present appeal. The legislature has, however, confined an appeal of this nature to a question of law.

The merits of the appeal

[30] The appellant contends that the adjudicator committed a material error of law by failing to interpret and apply prescribed management rule 29(3). He submits that the interpretation and legal effect of that rule constituted the anterior question and that the dispute could not properly be decided merely by reference to the resolutions or practices adopted within the scheme.

[31] Rule 29(3) provides, to the extent relevant:

"A body corporate must, if so directed by a resolution of members-

(a) install and maintain separate meters to record the consumption of electricity, water or gas in respect of each section or exclusive use area; and

(b) recover from members the cost of such supplies to sections and exclusive use areas based on the metered supply."

[32] The appellant submits that the adjudicator undertook no analysis of the language, context or purpose of the rule. In particular, she did not determine whether it imposed a mandatory obligation upon the first respondent, whether that obligation could be transferred to individual owners, or what legal significance attached to the composite expression "install and maintain".

[33] According to the appellant, the adjudicator inverted the proper enquiry by treating the resolutions and established practices within the scheme as determinative. The STSMA and its prescribed rules constitute the governing legal framework. Any resolution or practice adopted within a sectional title scheme must be consistent with that framework and cannot override a peremptory statutory obligation.

[34] Relying upon Natal Joint Municipal Pension Fund v Endumeni Municipality[1] 2012 (4) SA 593 (SCA), the appellant submits that rule 29(3) must be interpreted by considering its language, context and purpose as part of a unitary enquiry. He places particular emphasis upon the word "must" and upon the identification of the body corporate as the entity required to "install and maintain" the meters.

[35] On his construction, the two verbs impose distinct but related obligations upon the body corporate. The obligation to install concerns the initial provision of the meter, while the obligation to maintain concerns its continued upkeep, including repair and, where necessary, replacement. He argues that there is no textual basis

[1] 2012 (4) SA 593 (SCA)

upon which the obligation to maintain may be separated from the obligation to install or transferred to individual owners.

[36] The appellant further submits that this interpretation accords with the purpose of rule 29. On his argument, the rule distinguishes between responsibility for the metering infrastructure, which rests with the body corporate, and liability for the utilities consumed in each section or exclusive-use area, which rests with the individual member.

[37] On that basis, the appellant seeks an order setting aside the adjudication order and substituting it with an order directing the first respondent to install a replacement water meter and reimburse him for the replacement keypad. Alternatively, he seeks the remittal of the matter to CSOS for reconsideration.

[38] Although the appellant appeared in person and does not claim professional legal fees, he seeks reimbursement of the reasonable and necessary disbursements incurred in prosecuting the appeal.

[39] As already alluded in the preceeding paragraph of this judgment Section 57(1) of the CSOS Act permits an applicant, an association or any affected person dissatisfied with an adjudicator's order to appeal to the High Court, but only on a question of law. Such an appeal is not a rehearing of the dispute and does not permit this Court to reconsider factual findings merely because it might have reached a different conclusion upon the evidence.

[40] A question of law arises where it is contended that the adjudicator misconstrued the governing legislation, applied an incorrect legal test, or reached a conclusion that is legally unsustainable upon the facts found or those that are common cause. Whether rule 29 imposes the obligation alleged by the appellant is a question of interpretation and consequently falls within the ambit of section 57.

[41] The appellant is correct that the adjudicator did not expressly undertake a detailed interpretation of rule 29(3). She treated the dispute largely as a factual enquiry governed by the incidence of the onus and the balance of probabilities.

Although the evidence and the resolutions adopted by the members were relevant, the anterior question was whether the prescribed management rules imposed the legal obligation upon which the appellant's claim depended.

[42] That omission does not, however, mean that the appeal must necessarily succeed. The appellant must still demonstrate that a proper interpretation of the applicable rules produces a materially different result. An appeal lies against the order and not merely against the reasons furnished for it. If the adjudicator's ultimate order was correct in law, incomplete reasoning does not, without more, justify appellate interference.

Interpretation of rule 29

[43] Rule 29, under the heading "Improvements to common property", provides in full as follows:

> *29. (1) The body corporate may on the authority of a unanimous resolution make alterations or improvements to the common property that is not reasonably necessary.*
>
> *(2) The body corporate may propose to make alterations or improvements to the common property that are reasonably necessary; provided that no such proposal may be implemented until all members are given at least 30 days written notice with details of-*
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> *(a) the estimated costs associated with the proposed alterations or improvements;*
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> *(b) details of how the body corporate intends to meet the costs, including details of any special contributions or loans by the body corporate that will be required for this purpose; and*
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> *(c) a motivation for the proposal including drawings of the proposed alterations or improvements showing their effect and a motivation of the need for them;*
>
> *(d) and if during this notice period any member in writing to the body corporate*

requests a general meeting to discuss the proposal, the proposal must not be implemented unless it is approved, with or without amendment, by a special resolution adopted at a general meeting.

(3) A body corporate must, if so directed by a resolution of members-

(a) install and maintain separate meters to measure the supply of electricity, water, gas or the supply of any other service to each member's sections and exclusive use areas and to the common property; and

(b) recover from members the cost of such supplies to sections and exclusive use areas based on the metered supply.

(4) A body corporate may on the authority of a special resolution install separate pre-payment meters on the common property to control the supply of water or electricity to a section or exclusive use area; provided that all members and occupiers of sections must be given at least 60 days notice of the proposed resolution with details of all costs associated with the installation of the pre-payment system and its estimated effect on the cost of the services over the next three years.

(5) If a pre-payment system referred to in sub-rule (4) is installed-

(a) the body corporate is responsible to ensure that the system does not infringe on the constitutional rights of section occupiers to access basic services; and

(b) any member who leases a unit to a tenant is responsible to ensure that the system does not infringe the rights of the tenant in terms of the Rental Housing Act, 1999 (Act No. 50 of 1999), or any other law.

[44] The interpretive exercise must be undertaken in accordance with the approach stated in Endumeni[2]. The language of the provision must be considered in

[2] In *Natal Joint Municipal Pension Fund v Endumeni Municipality* **2012 (4) SA 593** (SCA) at para 18 the court held that: 'Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible

its context and in the light of its apparent purpose. These considerations form part of a unitary enquiry. Selected words may not be considered in isolation from the remainder of the provision or the statutory scheme of which they form part.

[45] Rule 29 regulates the supply of services to sections and exclusive-use areas. The appellant places emphasis upon the words "must" and "install and maintain" in rule 29(3). Considered in isolation, those words appear to impose a mandatory and continuing obligation upon a body corporate. They cannot, however, be divorced from the immediately preceding qualification, namely "if so directed by a resolution of members".

[46] The word "must" describes the consequence that follows once the body corporate has been directed by a resolution of members to undertake the functions specified in the rule. It does not create an obligation independently of such a resolution. The existence of the requisite resolution is therefore a jurisdictional fact upon which the obligation under rule 29(3) depends.

[47] The appellant's interpretation treats the qualifying words as relevant only to the initial decision to install the meters. On that construction, once a resolution authorising installation has been adopted, the body corporate assumes an indefinite statutory obligation to maintain, repair and replace every meter thereafter, regardless of the terms of the resolution.

[48] That construction does not follow from the language of the rule. The direction contemplated in rule 29(3) relates to the composite obligation described in paragraph (a). Whether a body corporate has been directed to undertake that obligation, and the nature and extent of the direction given, must be determined with reference to the resolution itself. The rule does not state that every resolution authorising the installation of a meter necessarily renders the body corporate financially responsible, for an indefinite period, for every subsequent repair or replacement.

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each possibility must be weighed in the light of all these factors. The process is objective not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document.’

[49] There is a further difficulty with the appellant's reliance upon rule 29(3). The meter in issue is a prepaid water meter installed to control the supply of water to his section. Prepayment meters are dealt with specifically in rule 29(4).

[50] Rule 29(4) provides, in material part, that a body corporate may, on the authority of a special resolution, install separate prepayment meters on the common property to control the supply of water or electricity to a section or exclusive-use area. It further prescribes notice requirements and requires members and occupiers to be provided with details of the costs associated with the proposed prepayment system and its estimated effect upon the cost of the services.

[51] The distinction is material. Rule 29(3) concerns separate meters used to record consumption and expressly refers to their installation and maintenance. Rule 29(4), by contrast, deals specifically with prepayment meters used to control the supply of water or electricity. It authorises a body corporate, pursuant to a special resolution, to install such meters but does not contain the same express reference to an obligation to "install and maintain".

[52] The specific provision governing prepayment meters cannot be disregarded in favour of the more general provision dealing with separate consumption meters. The appellant's argument rests upon the premise that rule 29(3) applies without qualification to the prepaid meter serving his section. That premise does not give sufficient effect to the structure of rule 29 when read as a whole.

[53] This does not mean that a body corporate can never assume responsibility for maintaining or replacing a prepaid meter. Such responsibility may arise from the terms of the resolution authorising the system, the scheme's valid rules, an agreement with the service provider, the ownership and location of the equipment, or some other applicable legal obligation. The narrower conclusion is that rule 29(3), upon which the appellant founded his claim, does not by itself impose the unconditional obligation alleged by him in respect of the prepaid meter.

[54] The minutes of the annual general meeting held on 23 February 2019 record that prepaid water meters were discussed, that three quotations had been obtained,

and that the trustees were directed to "finalise the pre-paid for the body corporate". They were also directed to consider appointing STSS at an 8% vending rate, excluding VAT.

[55] The recorded resolution authorised the trustees to finalise the introduction of the prepaid metering system. It does not state that the body corporate undertook to bear the cost of every future repair or replacement after expiry of the applicable warranty. Nor does it address the allocation of responsibility for replacement meters at the end of their useful lifespan.

[56] It is unnecessary in this appeal to determine whether the resolution satisfied every procedural requirement imposed by rule 29(4). The lawfulness of the original installation of the prepaid metering system was not the subject of the relief sought before the adjudicator and does not arise for determination on the grounds of appeal.

[57] The relevant consideration is that neither the recorded terms of the resolution nor any other provision relied upon by the appellant establishes that the body corporate assumed continuing financial responsibility for the repair and replacement of the prepaid meters.

[58] The appellant relied upon the word "maintain" as necessarily including repair and replacement. Depending upon its context, an obligation to maintain property may encompass repairs and, in appropriate circumstances, replacement.

[59] That question is not dispositive of the appeal, however, because the appellant first had to establish that the maintenance obligation imposed by rule 29(3) governed the prepaid meter in issue. For the reasons already given, he failed to do so.

[60] The evidence before the adjudicator was also inconsistent with the existence of the unconditional obligation alleged by the appellant. The body corporate's evidence was that the meters carried a 12-month warranty, after which individual owners were responsible for their repair or replacement. Other owners had replaced meters serving their sections at their own expense or pursuant to payment arrangements with the body corporate.

[61] The correspondence demonstrated that the appellant had been informed during April 2024 that the meter serving unit 4[...] had been bypassed and required replacement. On 15 August 2024, he indicated that he would attend to the matter when afforded an opportunity to do so. In September 2024, he referred to the need to "still install a water meter", and in March 2025 he requested the technical specifications of the meter.

[62] Those statements are not decisive of the proper interpretation of the prescribed management rules. Nor do they necessarily constitute a binding admission of legal liability. They nevertheless provide no support for the proposition that the body corporate had accepted responsibility for replacing the meter.

[63] The appellant bore the burden of establishing his entitlement to the repayment order sought under s 39(1)(e) of the CSOS Act. He was consequently required to identify a legal basis upon which the body corporate was liable for the R515,12 expended on the replacement keypad.

[64] Apart from his reliance upon rule 29(3), the appellant identified no resolution, rule, agreement or other source of obligation requiring the body corporate to bear that expenditure.

[65] The fact that the initial installation was financed from the body corporate's reserve fund does not establish such an obligation. A body corporate comprises all the owners in the scheme, and its funds are derived principally from their contributions.

[66] Payment of the initial installation costs from the reserve fund does not, without more, establish that the body corporate undertook an indefinite obligation to finance every subsequent repair or replacement of a prepaid meter serving an individual section.

[67] The adjudicator's reliance upon s 7(1) of the STSMA did not, standing alone, answer the appellant's statutory argument. Trustees must exercise the functions and

powers of the body corporate subject not only to directions given at a general meeting, but also to the STSMA and the applicable rules. A resolution or established practice cannot validate conduct which is inconsistent with a peremptory statutory provision.

[68] In the present matter, however, the appellant failed to establish the alleged inconsistency. Rule 29(3) does not impose upon the body corporate the unconditional liability for replacement of a prepaid meter for which he contends, while the resolution of 23 February 2019 does not allocate continuing financial responsibility for the meters to the body corporate.

[69] The adjudicator therefore reached the correct ultimate conclusion in dismissing the appellant's claim. Her failure expressly to undertake the required interpretive enquiry does not alter the outcome because, upon a proper consideration of rule 29 as a whole, the construction advanced by the appellant cannot be sustained.

[70] I should add that it was neither necessary nor appropriate to characterise the appellant's application as frivolous. The appellant raised a genuine question concerning the proper interpretation of the prescribed management rules. The fact that his proposed interpretation was ultimately found to be incorrect did not render the application frivolous.

[71] The application was nevertheless legally misconceived because it proceeded from the incorrect premise that rule 29(3) governed the prepaid meter in issue and, without more, imposed the claimed liability upon the body corporate.

[72] The appellant has therefore failed to demonstrate a material error of law affecting the adjudicator's ultimate order.

Conclusion

[73] The adjudicator's failure to expressly determine the meaning and effect of rule 29(3) does not render her order wrong in law. The prepaid meter serving unit

4[...] falls within rule 29(4), which, unlike rule 29(3), imposes no express obligation upon the body corporate to maintain, repair or replace such a meter. Nor did the appellant establish any resolution, rule, agreement or other legal basis imposing that liability upon the body corporate. The appellant accordingly failed to establish an entitlement either to replacement of the meter or reimbursement of the cost of the keypad.

[74] The adjudicator's dismissal of the application was therefore correct, notwithstanding the incompleteness of her reasons. The appellant has accordingly failed to demonstrate a material error of law warranting interference under section 57 of the CSOS Act.

Costs

[75] The appellant appeared in person and incurred no professional legal fees. He nevertheless seeks reimbursement of the reasonable and necessary disbursements incurred in prosecuting the appeal, including copying, service and travelling expenses.

[76] A self-represented litigant may, in an appropriate case, recover proven and reasonably incurred disbursements. The appellant has, however, been unsuccessful and has established no basis upon which his disbursements should be borne by either respondent. Neither respondent participated in the appeal nor sought a costs order. In the circumstances, there should be no order as to costs.

ORDER

[77] In the result, I propose the following order:

[77.1] The appeal is dismissed.

[77.2] There is no order as to costs.

M.F. ADAMS

Acting Judge of the High Court

I agree, and it is so ordered.

N. E. RALARALA

Judge of the High Court

<u>Appearances:</u>

For the Appellant: In Person

For the Respondents: No appearance