TEXT OF J B JEYARETNAM'S SPEECH
AT PRESS CONFERENCE ON 27 NOV 2004
ON THE JUDGEMENT OF THE COURT OF APPEAL
DISMISSING HIS APPLICATION FOR DISCHARGE

Every litigant before a court of justice has a right to expect that the court would do justice to his case. He, of course, cannot impose what he considers to be justice on the court. It is for the court to do justice. But the litigant has the right to expect the court to consider his submissions and, if the court is unable to accept the submissions, to state the reasons for it.

The Court of Appeal judgment wholly fails to meet this expectation I had entertained.

The Court of Appeal has totally failed to consider why I say I should be granted a discharge. Instead the court has lapped everything that OA said without examining any of the matters raised by him. The judgment reads as though it could just as well have been written by Mr. Sarjit Singh who works in the Ministry of Law of which one of the creditors, S. Jayakumar, is the head. I alluded to this in my closing address that in his conduct of my bankruptcy, Sarjit Singh had given the impression that he was reluctant to collect debts or to say what sum he would consider reasonable that I should offer to pay to obtain my discharge, just content to let my bankruptcy run.

In its judgment, the court has not shown that it had adequately considered the submissions that I raised. A number of my submissions are not even mentioned in the judgment. I shall refer to them later.

The judgment is totally one-sided. I have no received the justice I had the right to expect from the court. This is not the first time I have not received justice. It is public knowledge that through the years 1984-1986 in a series of judgments the courts in Singapore had inflicted serious injustice to me. This is not the view of a layman. It was considered verdict of Singapore's then highest court of appeal - the Privy Council in London. Alas that avenue is no longer open to Singaporeans. Sadly on all occasion I had gone before the court in my political career, I have never received justice.

These are very strong words and I must seek to justify what I have said.
But before I show why, in my opinion, the judgment is totally one-sided and denies me justice, I must first dispose of the monstrous allegation that I had lied in my Statement of Affairs and concealed an asset.

The Bankruptcy Act requires the OA to file a report in every application for discharge, to inform the court of any misconduct of the bankrupt or lack of co-operation on the bankrupt's part. The OA in his report makes no allegation at all that I had lied in my Statement of Affairs or concealed any asset. He does not do that when the law requires him to do but raises it in court. He has, however, not challenged what I said to the court - of what I had told the officer who was completing my Statement of Affairs. To prove his monstrous allegation that I lied, should the OA not have filed the affidavit from his officer challenging my version. He does not do that but in court calls me "most dishonest bankrupt". In any event, the said property is not an asset I own which can be realized to pay the creditors.

The property is in my late sister's name and court proceedings have to be taken to determine who is entitled to the property and in what share. Section 129 of the Act requires the bankrupt to declare all assets owned by him and which can be realized to pay the creditors. The property was not vested in me at the time of my bankruptcy and could not have vested in the OA as my trustee.

My principal ground was that the creditors - Goh Chok Tong, S Jayakumar and eight others - were using the bankruptcy proceedings for a political end. This was the view of the Inter Parliamentary Union and also the view of the Lawyer's Rights Watch of Canada. After the hearing I forwarded to the court an opinion prepared by two Canadian lawyers for the Lawyers Rights Watch that the bankruptcy proceedings were, in their view, a misuse of the Bankruptcy Act.

The Bankruptcy Court, under its powers give to it by the Bankruptcy Act, can annul any adjudication order if it should not have been made in the first place.

The court does not appear to have considered my argument on the abuse of process at all. The court simply adopts Justice Choo Han Teck's dismissal of this point who refused to consider it saying it was irrelevant.

Funnily enough the Court of Appeal says that the principle established in the cases cited by me is not in dispute and that a court "should have no regard whatsoever (to a creditor's objection)" if it "is based on a ground which constitutes an abuse of process". This is exactly what I am saying but the court has not shown in its judgment that is has considered at all the many factors which I had raised in my submission showing a likely abuse of the process of court. It is most unsatisfactory. The lawyers for S Jayakumar and the eight creditors had no answer to my allegation that their clients were objecting for a political end. They did not attempt to answer any of the questions I raised about the way that the bankruptcy proceedings had been pursued against me leaving well alone other parties who were equally liable with me for the amount owed to them.

The Court of Appeal judgment makes no mention of my complaint that S Jayakumar and his co-plaintiffs had violated a principle in bankruptcy law by not turning over to the OS the $66,666-66 they garnished after I obtained a judgment for that sum. The sum was garnished after bankruptcy proceedings had been commenced. The principle is very well established and the court should have ordered S Jayakumar to pay over the amount to the OA to be shared equally with all other creditors. I complained of the failure of the OA to claim the amount from S Jayakumar. The Court of Appeal in its failure to touch on this in its judgment must appear to condone this violation by S Jayakumar and the OA.

The Court of Appeal again does not appear to have considered my complaint that the eight creditors had abused the process of court when, after obtaining an Order of Court for payment to them of $3,226-20 due to me and the two defendants in the libel suit, they do not collect the sum from the debtor (a co-plaintiff in the libel suit of the eight creditors) but continue to claim the sum from me. I asked why was the sum garnished in the first place but got no answers.

I complained of the failure of the Official Assignee to enforce the Order of Court and collect the sum.

The Court of Appeal again by its failure to touch on this in its judgment must appear to condone the conduct of the eight creditors and the OA.

I had said they were acting oppressively against me and abusing the process of court which the cases I cited said no court should allow in bankruptcy proceedings.

The judgment also fails to answer my question whether it would not be repugnant to commercial morality and public interest to keep me bankrupt if I paid one-third of the debts due when the creditors had chosen deliberately not to claim from the other two debtors who were equally liable with me. I had offered to pay one-third and the court should have answered my question. Commercial morality and public interest are two factors that must be considered by the court in any application for discharge. Justice Choo did not take them into consideration and the Court of Appeal in turn fails to consider them. This is lamentable.

The court says in its judgment that I asked the court rhetorically to say what sum would be satisfactory to the court if the court did not consider one-third adequate.

It was not a rhetoric question. It was an earnest question indicating my intention to raise the amount. I said I had to be told. Why did the court not fix a sum and grant my discharge not to take effect until the sum was paid. Instead the court says it cannot grant a conditional discharge because it cannot be sure that I will fulfil the condition. This is completely without any substance. As said earlier the court can postpone the discharge until the condition is fulfilled.

The court's refusal to fix a sum and suspend the discharge until payment only serves to give the impression that the court was not willing to grant a discharge under any circumstances whatsoever.

The court says it is premature to grant me a discharge. Why? When I go before them saying I will pay whatever the court says is reasonable.

Instead of doing justice to me, the court accepted the objection of the OA. The court says I had no answered the OA's objections that the administration of my estate had no been completed and secondly that I had not been co-operative. The court is wrong. The matters which the OA said in which administration had not been completed related to my action in court to recover debts and the property in Johor.
I had pointed out to Justice Choo and to the Appeal Court that there were only two actions and not several as the OA seemed to suggest. I told the court that in the two actions there was nothing for the OA to administer. The action against one of the parties in one suit had been settled and the sum paid under the settlement was paid directly to the OA. I had agreed to give an undertaking to pay over any other sum recovered. The Court of Appeal notes this. This is nothing for the OA to do except to receive any monies paid under any judgment obtained by me. What administration remains to be done.

In the case of the property, I pointed out that the OA had done nothing to assert his right to take over my claim for more than three years after he first knew of my claim. He had not taken the first step to apply to the Malaysian court at Johor Bahru to register his interest in the property as my trustee in bankruptcy. No reason at all was advanced as to why he had no done that. He does not need my co-operation at all for that. He only needs my co-operation when it came to the court proceedings to determine who owned the property. I asked the court whether the OA can choose to do nothing for three years and object to my application that he had no completed his work. It must have been clear to the court that the OA was not interested in doing anything but only to object to my discharge. His bona-fides was called into question. The court does not question his bona-fides.

As for the charge that I had no co-operated with the OA, the OA could only point to one act. That I did not give him the RM9,000-00 due to me from my sister's estate. **My Malaysian lawyer had told the OA that he would hand over the money if the OA first registered his interest in the court at JB. The OA is very angry that I have not collected the money and paid it to him.**

This is nothing else he could point to. I had reported to him regularly every two weeks the monies I received from the sale of my book. I had filed my statements of Income and Expenses regularly at the times required of me under the Rules. I had paid every month the contribution fixed by the OA as my payments towards the creditors. I have never left Singapore without his permission.

I am at a loss to understand how the court could find, as it appears to have found, that I have been un-cooperative.
The objections of the OA are groundless. They have been raised just to stop my discharge without laying the proper foundation.

I am very disappointed with the judgment, not because I have lost, but because the court has failed to give me any consideration.

The President of the Court in the course of my closing address said he was sorry for me. I told him I had not come to the court to seek sympathy but to seek justice and fairness. This regrettably I did not get.

J B Jeyaretnam