

**IN THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)
CIVIL APPEAL NO. 01(f)-17-06/2016 (A)**

BETWEEN

INDIRA GANDHI A/P MUTHO

...APPELLANT

AND

- 1. PENGARAH JABATAN AGAMA ISLAM PERAK... RESPONDENTS**
- 2. PENDAFTAR MUALAF**
- 3. KERAJAAN NEGERI PERAK**

(Dalam Mahkamah Rayuan Malaysia
(Bidang Kuasa Rayuan)
Rayuan Sivil No. A-01-304-08/2013

Antara

1. Pengarah Jabatan Agama Islam Perak
2. Pendaftar Muafaf
3. Kerajaan Negeri Perak

... Perayu-Perayu

Dan

Indira Gandhi A/P Mutho
(No. K/P: 750110-08-5002)

... Responden

yang diputuskan oleh Mahkamah Rayuan di Putrajaya
pada 30 haribulan Disember 2015)

Heard together

**IN THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)
CIVIL APPEAL NO. 01(f)-18-06/2016 (A)**

BETWEEN

**INDIRA GANDHI A/P MUTHO
(No. K/P: 750110-08-5002)**

... APPELLANT

AND

**1. KEMENTERIAN PELAJARAN MALAYSIA ... RESPONDENTS
2. KERAJAAN MALAYSIA**

(Dalam Mahkamah Rayuan Malaysia
(Bidang Kuasa Rayuan)
Rayuan Sivil No. A-01-316-09/2013

Antara

1. Pengarah Jabatan Agama Islam Perak
2. Kerajaan Malaysia

... Perayu-Perayu

Dan

Indira Gandhi A/P Mutho
(No. K/P: 750110-08-5002)

... Responden

yang diputuskan oleh Mahkamah Rayuan di Putrajaya
pada 30 haribulan Disember 2015)

Heard together

**IN THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)
CIVIL APPEAL NO. 01(f)-19-06/2016 (A)**

BETWEEN

INDIRA GANDHI A/P MUTHO

... APPELLANT

AND

PATMANATHAN A/L KRISHNAN

... RESPONDENT

(Dalam Mahkamah Rayuan Malaysia
(Bidang Kuasa Rayuan)
Rayuan Sivil No. A-02-1826-08/2013

Antara

Patmanathan A/L Krishnan

... Perayu-Perayu

Dan

Indira Gandhi A/P Mutho
(No. K/P: 750110-08-5002)

... Responden

yang diputuskan oleh Mahkamah Rayuan di Putrajaya
pada 30 haribulan Disember 2015)

CORAM :

**ZULKEFLI AHMAD MAKINUDDIN, PCA
RICHARD MALANJUM, CJSS
ZAINUN ALI, FCJ
ABU SAMAH NORDIN, FCJ
RAMLY HAJI ALI, FCJ**

JUDGMENT OF ZULKEFLI BIN AHMAD MAKINUDIN, PCA

1. I have read the judgment in draft of my learned sister judge Zainun Ali, FCJ and wholly agree with the views expressed on the issues raised and the decision arrived at by her ladyship.

2. Her ladyship has comprehensively and systematically dealt with all the issues raised under the three (3) questions of law posed before this Court. I would like to add to the judgment and state our views as regards the third question of law posed as follows:

“Whether the mother and the father (if both are still surviving) of a child of a civil marriage must consent before a certificate of conversion to Islam can be issued in respect of that child.”

3. The issue of religious conversion of young children into the Islamic faith is a contentious issue and has been the subject of discussion in the public domain in recent times. It has been noted that even the Executive and the Legislature have been contemplating introducing an amendment to the relevant laws to give effect to the position of the rightful party over the issue.

4. I would like to state here that in deciding the issue before us, as judges we are not swayed by our own religious convictions and sentiment over the issue.

5. I am reminded of the proud accolade of the late Tun Suffian, former Lord President of Malaysia in his Braddel Memorial Lecture in 1982, when speaking of the Malaysian judiciary to a Singapore audience he said:

“In a multi-racial and multi religious society like yours and mine, while we judges cannot help being Malay or Chinese or Indian; or being Muslim or Buddhist or Hindu or whatever, we strive not to be too identified with any particular race or religion – so that nobody reading our judgement with our name deleted could with confidence identify our race or religion, and so that the various communities, especially minority communities, are assured that we will not allow their rights to be trampled underfoot.”

6. It may be so that looking at the issue purely from the view point of the Syariah law and its precepts, that the decision may lean in favour of the party who argues from that perspective of the law. In the present case in upholding the rule of law we have to decide on the issue strictly on the basis of the relevant laws, case authorities and the provisions of both the State and the Federal Constitution governing the particular issue.

(ZULKEFLI BIN AHMAD MAKINUDIN)
President
Court of Appeal Malaysia

Dated: 29 Januari 2018

CIVIL APPEAL NO. 01(f)-17-06/2016 (A), 01(f)-18-06/2016 (A) & 01(f)-19-06/2016 (A)

Counsel For the Appellant:

M. Kula Segaran
K. Shunmuga
Fahri Azzat
Aston Paiva
N. Selvam
S. Kiattilin
Surendra Ananth

Solicitors For the Appellant:

Messrs.Kula & Associates

Counsel For the Respondent 1 :

Dato' Rohana Abd. Malek
Suhaila Haron

Solicitors For the Respondent :

Pejabat Penasihat Undang-
Undang Negeri Perak.

Counsel For the Respondent 2:

Shamsul Bolhassan
Dr. Arik Sanusi Yeop Johari
Suzana Atan

Solicitors For the Respondent 2:

Jabatan Peguam Negara Malaysia.

Counsel For the Respondent 3:

Hatim Musa

Solicitors For the Respondent 3:

Messrs. Hatim Musa & Co.

Watching Brief :

Honey Tan Lay Ean
Majlis Peguam Malaysia.

Andy Yong
Parti Gerakan Rakyat Malaysia.

Goh Siu Lin
Association of Women Lawyers.