



Using Section 24A to counter judicial backlogs

by Nahendran Navaratnam

Whilst we have all been under enforced isolation, the backlog of cases pending judicial disposal would have increased significantly. Once we return to normalcy, the Judiciary will face the difficult challenge of having to reduce the backlog as quickly as possible. One of the measures they could explore is to use section 24A of the Courts of Judicature Act 1964.

Similar provisions may exist elsewhere in the world but under this provision, Malaysian Courts have the power (in non-criminal matters only) to refer any question arising in any cause or matter, for inquiry or report by a special referee. The report may be adopted wholly or partially by the High Court and enforced as a decree, judgment or order to the same effect.

The Court also has power under this section to order the whole matter or any question or issue of fact arising in it to be tried before a special referee or arbitrator respectively agreed on by the parties or before an officer of the Court. This power can be exercised **(1)** if all the parties agree or **(2)** if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the High Court, conveniently be conducted through its ordinary officers; or **(3)** if the question in dispute consists wholly or in part of matters of account.

The considered use of this provision could help to solve the problem of too many urgent cases having to be heard by too few judges and could alleviate judicial congestion not only in times like this but also on other occasions in future when the demand on judicial time is temporarily strained.