

IN THE CONSTITUTIONAL COURT OF SEYCHELLES

[Coram: G. DODIN, M. VIDOT, L. PILLAY]

CP 03/2017

[2018] SCCC 5

DURAIKANNU KARUNAKARAN

Petitioner

Vs

CONSTITUTIONAL APPOINTMENT AUTHORITY

1st Respondent

ATTORNEY GENERAL

2nd Respondent

Heard: 6th March 2018
Counsel: Mrs. Amesbury for the Petitioner
Mr. Derjaques for the 1st Respondent
Mr. Esparon for the 2nd Respondent
Ms. Madeleine for the Intervenor

Delivered: 6th March 2018

RULING

- [1] Learned Counsel for the Intervenor has informed the Court that she would be calling the Deponents who swore affidavits for the Defendants to be cross-examined thereon.
- [2] Learned Counsel for the 1st Respondent objected to the Application made viva voce and also raised the issue of the Intervenors not having sworn any affidavits and therefore have not placed any evidence before this Court.
- [3] We first consider the issue of the Affidavits by the Intervenors. This Petition is made under Article 130 of the Constitution, it follows that not all Constitutional Court Rules would apply with regards to procedures . In this case we are satisfied that in the absence of specific rules under Article 130, the provisions of the Seychelles Code of Civil Procedure would apply. As such, no motion is required in order to call deponents to be cross-examined on their respective affidavits. However, in view of the Intervenor's status in these proceedings and the nature of the statements of demand do not make a case against other parties:
- [4] As stated in the judgment of Judge Renaud in the Court of Appeal paragraph 36 (last) which is the same case which was appealed against, I would quote:
- "It is on the basis of the matter discussed above that I concur with the president of this Court and grant leave to the 1st and 2nd Applicants to respond to the relevant and pertinent parts of the Affidavits in the pending petition by filing the respective statement of demand to which the other parties shall be allowed to respond".*

- [5] Hence the role of the Intervenor being to defend and protect the Intervenor's rights and interest, the reason or necessity for cross-examination of the deponents is not made out. Consequently leave is not granted for such cross-examination.
- [6] On the 2nd issue of Affidavits by the Intervenors, the rules do not require the Intervenors to state their cases by Affidavits, this is in line with their status as stated above. Hence, their purpose is to intervene as and when their rights or interest are threatened or are being intruded upon.

This is the ruling of the Court.

Signed, dated and delivered at Ile du Port on the 6th March 2018.

G. Dodin
Judge of the Supreme Court (Presiding)

M. Vidot
Judge

L. Pillay
Judge