

**IN THE SUPREME COURT OF SEYCHELLES**

LINRO GLOBAL

(Rep by Robin Johnston) PLAINTIFF

VERSUS

**1. GOVERNMENT OF SEYCHELLES**

(Rep by Attorney General)

**2. PUBLIC UTILITIES CORPORATION**

(Rep by Mr. P. Morin)  
**DEFENDANT**

Civil Side No 259 of 2005

Mr. B. Hoareau for the Plaintiff  
Mr. J. Camille for the Defendant

**RULING**

**Gaswaga J**

When this case came up for hearing in the morning the Counsel for the defendants applied for an adjournment that he needed to do further consultations with his clients. Mr. Basil Hoareau for the plaintiff vehemently objected to the application and just like Mr. Camille relied on the provisions of **S. 129 of the Seychelles Code of Civil Procedure Cap 213**. He further submitted that since the defence was filed it means that Mr Camille had already conferenced with and therefore taken all the necessary instructions he needed from the defendants. It was prayed that Mr. Camille's application be overruled as it did not show any sufficient cause as required by S. 129 which reads as follows;

*"On the date fixed by the Court for the hearing of the suit, the parties shall appear and the Court shall proceed to the hearing of the suit. The Court may, at any stage of the suit, if sufficient cause be shown and subject to such order as to costs as to the Court may seem fit, grant time to the plaintiff or defendant to proceed in the prosecution or defence of the suit and may adjourn the hearing of the suit".*

With due respect, I do not find Mr Camilles reasons convincing given these circumstances. The Court could not tell from his submission exactly what he wanted to do if granted more time.

Moreover, the plaint was filed on 1/8/2005 and the defence on 5/11/200 while the hearing date was fixed on 6/12/2005. He should have waited to file the defence and instead ask for more time. In all circumstances and fairness, unless otherwise clearly explained to the Court, I believe the parties have had ample time to prepare for this case. The Court cannot but agree with Mr. Basil that no sufficient cause has been shown as required by law to warrant an adjournment herein.

Justice Hodoul, in the case of Etienne Gill Vs James Gill Court of Appeal No. 4 of 2004 sounded a warning on this subject to both the bench and the bar in the following terms:

*“We urge all legal practitioners to ensure that they discharge their duties towards their clients diligently and do not apply for adjournments except for serious reasons such as illness or death of a close relative.”*

He continued:

*“We urge members of the bench of the Supreme Court not to grant adjournments for frivolous reasons”.*

On the other hand, looking at the defence on record (*although this has not been raised by the plaintiff*) I note that it does not distinctly deny the material facts alleged in the plaint but rather offers a general denial which, in my view, offends **S. 75 of the Seychelles Code of Civil Procedure Cap 213**. Mr Camille also intimated that he needed further instructions *“perhaps at this point not to reach a settlement but to get full particulars with respect to the case.....”*

Be that as it may, a Court of law is mandated, as one of its cardinal duties, to administer substantive justice and decide cases on their merits. A party that wants to take a different stand in its case by way of amendment or otherwise, I feel may be given an opportunity, especially at such an early stage of the proceedings, as long as the Court deems it fit and not much inconvenience will be occasioned on the other party. See. **Hinckley & Another Vs. Freeman (1941) Ch. 32.**

Mr Basil informed the Court that his witnesses were present in Court and ready to proceed. Hence their failure to testify today cannot be attributed to any one else but the defendants. This is a situation that may put the applicant under onerous terms as to costs.

In conclusion therefore the defendants will be allowed more time as prayed on condition that they meet the days costs which shall be taxed by the Court.

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D. GASWAGA

**JUDGE**

Dated this 8<sup>th</sup> day of June 2006