

IN THE SUPREME COURT OF SEYCHELLES

MRS. LEA K. CHETTY

VS.

MR. LEVI KRISHNA CHETTY

Civil Side No. 273 of 2007

Civil Side No. 280 of 2007

Mr. Derjacques for the Plaintiff

Mr. Hoareau for the Defendant

RULING

Gaswaga, J

This is an application for consolidation of suits that were filed in this court and registered as CS 280 of 2007 and CS 273 of 2007. In the latter case the Plaintiff is Mrs. Lea K. Chetty who is suing her son Mr. Levi Krishna Chetty for the following orders:-

- a) *That the transfer signed on the 2nd November, 2006 between the defendant and the Mr. Srinivasen Mariapen Chetty be voided and set aside with no legal effect.*
- b) *The Registrar of Lands to register land parcel V5498 in the sole name of the Plaintiff forthwith.*
- c) *To declare the Plaintiff as the owner of land parcel*

V5498.

- d) *To make such orders as may be just and fair in all circumstances of the case.*
- e) *To order costs for the Plaintiff.*

In the former case Mr. Krishna Chetty, the son, is suing his mother, Mrs. Lea K. Chetty, for the following prayers:-

- i. *The 2nd Defendant to remove the said restriction in term of Section 86(2) in the Land Registration Act.*
- ii. *The 2nd Defendant to register the transfer dated 2nd November, 2006 and*
- iii. *Costs.*

Further, in CS 280 of 2007 there is a 2nd Defendant, Lucianne Charlette, sued in her capacity as the Land Registrar. However, during the proceedings of the 24th October, 2007 Senior State Counsel, Mr. Joel Camille, standing in for Mr. Adeline submitted for the 2nd Defendant that although both cases were originating from the same property comprised in parcel V5498 along with the buildings situated thereon, the 2nd defendant was only party in CS 280 of 2007 and he had no objection to the matters being consolidated.

It was argued by Ms. Chetty that both cases should be consolidated as the parties and the subject matter are similar and the issues that are being raised are the same. On the other hand Mr. Derjacques representing the 1st defendant in CS 280 of 2007 and the plaintiff in CS 273 of 2007 contended that he would have preferred a counter claim to be filed instead of a separate plaint. In his further argument Mr. Derjacques objected to the consolidation of the two cases. I found Section 106 of Seychelles Code of Civil Procedure, Cap 213 to be of relevance to this subject matter which reads;

“Consolidation

106. If more than one suit has been entered by the same plaintiff against the same defendant or if more than one suit has been entered by different plaintiffs against the same defendant in respect of claims arising out of the same transaction or a series of transactions or if cross-suits have been entered between the same parties, and the parties sue and are being sued respectively in the same capacities, the court may either of its own motion or on the application of any of the parties order such suits or any of them to be consolidated and tried as one suit, if it appears to the court that they can be conveniently tried or disposed of together, and the court may make such other order as may be necessary or expedient for the purpose of trying such suits together , and may make such order as to costs as may be just.”

A perusal of the pleadings in both CS 273 of 2007 and CS 280 of 2007 reveals that the above cross-suits have been entered essentially between the same parties arising or stemming out of or touching the same subject matter (parcel V5498) while the prayers sought would boil down to the same thing – which result would conveniently be achieved and obtained from the same Court. Therefore, it is only prudent that both cases be tried or disposed of together.

I so order.

D. GASWAGA

JUDGE

Dated this 21st day of January, 2008.