

IN THE SUPREME COURT OF SEYCHELLES

**BUGGY AND JEEP Rentals (Proprietary) Limited
United represented by its director Ms. Betty Michel**

Petitioner

V

THE LAND REGISTRAR

Respondent

And now between

DANDELE PULCIANI

Applicant

V

**BUGGY AND JEEP RENTALS (PROPRIETARY)
Ltd**

Petitioner Respondent

THE LAND REGISTRAR

Respondent

Civil Side No. 270 of 2010

Mrs Lucie Pool Attorney at Law for Applicant

Mr. Serge Rouillon Attorney at Law for the Petitioner Respondent

Ms. Samantha Aglae State Counsel for the Respondent

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This is an application by the aforementioned applicant Daniele Pulciani, to intervene in this writ application before court The aforementioned petitioner respondent Buggy and Jeep Rental (Proprietary) Ltd (hereinafter referred to as the petitioner) is seeking a writ of Mandamus to compel the respondent, the Land

Registrar to register the transfer deeds in respect of lands bearing title No. T1752 and T 2395 as there is no lawful reason or justification for the respondent to withhold such registration.

It is the position of the respondent that on the 15th of July 2009 Mr. Wilby Lucas filed an application for a restriction against the aforementioned parcels of land on behalf of one Andrea Colucci. On the 17th of August 2009 Miss Lucie Pool too filed an application for restriction against the same parcels of land on behalf of Daniele Pulciani the applicant in this case. Having considered same, a restriction order was issued by the Registrar of Lands pursuant to section 84 of the Land Registration Act Cap 107.

The background facts of this case are that both the parties who originally filed an application for restriction in the Land Registry namely Andrea Colucci and Daniele Pulciani are Italian nationals who in terms of the Nominee Services Agreement dated 30th of March 2007 filed in the record, appointed Mrs. Lisa Rouillon and Ms Nahil Francoise as "part time shareholders and directors" of Tree Sword (Proprietary) Ltd (hereinafter referred to as the said company). The said appointment has been made by the directors and beneficial owners of the said company, namely Andrea Colucci, Daniele Pulciani and another namely Paok Ghezzi.

It is to be noted that originally there were two applications to intervene in the said case. One been made by Daniele Pulciani and the other by Andrea Colucci who as per the schedule of the said agreement are both beneficial owners and principals of the said company. The schedule of the aforementioned Nominee Services Agreement further refers to the fact that Mr. Daniel Pulciani, Andrea Colucci and

Paola Ghezzi are the beneficial owners of 33 shares each. It is to be noted that Article 1 of the said agreement states that "part time share holders and directors" are to act under the instructions of the directors, principals and beneficial owners which include Andrea Colucci and Daniele Pulciani. It is apparent on the affidavit filed by Daniele Pulciani that she had paid an amount totaling 54,000 Euros towards the purchase of the said properties bearing title T2395 and T 1752 and that the "part time directors" appointed by them were now in the process of transferring the said properties to another company namely the **petitkHier** Buggy and Jeep Rentals (Proprietary) Ltd who is seeking a writ of Mandamus to compel the

Registrar of Lands to register the titles in its name. It is apparent from the affidavit filed by Daniele Pulciani that their consent has not been given to the "part time directors" for the said sale to the petitioner in this case.

It is to be noted since the filing of the application **and** affidavits to intervene in this case Andrea Colucci one of the applicants who wished to intervene as a party to this case has decided to withdraw the application to intervene.

In the case of ***Re: Wilmot v W & C French (Seychelles) Ltd; Morel Dubail, Applicant 1972 SLR No. 28*** it was held that for a party to be added, court should be satisfied the party's presence before the court was necessary in order to enable the court **to** effectually and completely adjudicate **and** settle all the questions involved **in** the case.

On considering the written submissions **of** the respondent, it is apparent that the registrar acting **on** the applications **of** Andrea Colucci **and** Daniele Pulciani through their attorneys had entered the said restriction order in terms **of** section 84 **of** the Land Registration Act Cap 107.

What is in issue in this instant case is the issue of a writ of Mandamus to compel or command the registrar to register the transfers to the petitioner in this case. It is apparent that as the registrar has acted on the applications of the aforementioned persons to issue the restriction order, if the restriction order is to be set aside, it is absolutely essential that the parties who made the application for the restriction order be made parties to this application for writ and be heard in order that court could effectively and completely adjudicate on the application made.

At present however Andrea Colucci has withdrawn the application to intervene. Considering the background facts of this case and for the aforementioned reasons, this court grants the application of Daniele Pulciani to intervene and includes the applicant Daniele Pulciani as the 2nd respondent in the petition.

Learned counsel for the petitioner has made submissions going into the legal aspects and merits of the case before court. It is too premature to consider and decide on these issues as the present ruling is only to determine whether the applicant be permitted to intervene in this case. The objections of the petitioner are therefore dismissed with costs.

M.NBURHAN

JUDGE

Dated this 14th day of September 2011