

IN THE SUPREME COURT OF SEYCHELLES

JIMMY CAMILLE

Vs

FOUR SEASONS RESORT

Civil Side No: 9 of 2012

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Mrs. Amesbury for the plaintiff
Mr. Chetty for the defendant

RULING

Renaud, J

This is a matter that was heard by the Employment Tribunal and there is now a Motion by the Applicant seeking for leave of this Court to appeal out of time against the judgment of that Tribunal.

The Applicant in his Affidavit in support of the Motion dated 9th January, 2012 deponed that he would like to appeal against the decision of the Employment Tribunal given on 1st December, 2011. That despite several requests that he made to the Employment Tribunal for a copy of the Judgment, he was only served with a copy on 4th January 2012. That as a consequence of the late service of the judgment on him he is outside the time limit of 14 days within which he should have filed his appeal. That furthermore, the copy of the judgment served on him has not been signed either by the Chairman or Members.

The representative of the Respondent to this Application, in his Affidavit in Reply of 25th April, 2012, deponed that the Applicant could have filed his Notice of Appeal despite the fact that he did not have a copy of the judgment of the Employment Tribunal. The Respondent had been informed by its Attorney-at-Law Basil Hoareau and he verily believed that there is already a ruling of the Supreme Court on the issue presently before the Court whereby the Supreme Court held that the requirements for filing a Notice of Appeal within 14 days would not be predated by receipts of the judgments. Consequently the Respondent averred that it was not a condition precedent that the Applicant ought to have filed his Notice of Appeal only after having received a copy of the judgment.

In considering whether to grant leave or not the Court would normally sustain precedence but that does not preclude it from considering all the circumstances surrounding the cause of the delay as well as whether the appeal is of substance.

In this matter the Applicant filed his proposed Memorandum of Appeal on 27th June, 2012 setting out three grounds of Appeal. Attached to his Application for leave to appeal out of time, there is a photo copy of only the last page of the judgment of the Employment Tribunal. This Court cannot in the circumstances assess whether the proposed grounds of appeal are of substance and would have any chance of success on appeal. A whole copy of the judgment ought to have been attached.

There is in existence the standard applicable procedure whereby an appeal must be proffered within the time limit. In order to meet the time frame, an intended Appellant will start by entering a Notice of Appeal supported by an Affidavit

stating why a Memorandum of Appeal could not be simultaneously entered. A good reason could be that the Appellant has not received a copy of the Judgment and record of proceedings. That ought to be the case in respect of such appeal where the Appellant has to meet the stringent time frame of 14 days like in the instant case. Unless very good cause is shown as to why a Notice of Appeal could not have been filed within the time limit pending the receipt of a copy of the judgment must be advanced by the intended Appellant. If this Court is lax in maintaining the principle that Rules of Court must be followed, there will not be proper procedural order in the way things are done.

I do not have any reason to digress from the standard set by this Court as I do not have good and cogent reasons to do so. In the circumstances I decline the request of the Applicant and refuse to grant leave for this matter to be heard out of time.

I make no order as to cost.

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B. RENAUD
JUDGE

Dated this 15 March, 2013