

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MA 295/2015

(arising in CS33/2015)

[2016] SCSC 641

PUBLIC UTILITIES CORPORATION
Applicant

versus

UNA ESTHER
First Respondent

LIAM BRISTOL
(A minor herein represented by his guardian UNA ESTHER)
Second Respondent

MARIE-ANGE BRISTOL
Third Respondent

NANET BRISTOL
Fourth Respondent

MICHEL BRISTOL
Fifth Respondent

JOSEPH BRISTOL
Sixth Respondent

Heard:

Counsel:

Mr. Rajasundaram for petitioner

Mrs. Faulconer-Alton for first respondent

Mrs. Faulconer-Alton for second respondent

Mrs. Faulconer-Alton for third respondent
Mrs. Faluconer-Alton for fourth respondent
Mrs. Faulconer-Alton for fifth respondent
Mrs. Faulconer-Alton for sixth respondent

Delivered: 7 September 2016

ORDER ON MOTION

Robinson J

- [1] Applicant applies for an order, under section 112 of the Seychelles Code of Civil Procedure, to add a defendant, Mrs. Eurline Bristol. For the present the court is not concerned with the merits of the application.
- [2] Learned counsel for Respondents objects to the application. She contends that the description of deponent is not sufficient. Deponent has no power to make the affidavit.
- [3] The affidavit, so far as relevant, states —

"I, Daniel Assan, Engineer by profession and employed at Public Utilities Corporation as Electrical Engineer having office at Electricity House, Roche Caiman, Mahe, Seychelles do hereby oath and state as follows:

[...].

2. That for and on behalf of Public Utilities Corporation [...].

[...]

12. That we, for and behalf of Public Utilities Corporation pray for an order from the Hon'ble Court that the owner of the site Mrs. Eurline Bristol of Pointe Conan, Mahe, be added as the 2nd Defendant in the suit CS33/15 for the proper adjudication in the claim of damages by the Plaintiffs [...].

- [4] Section 10 of the Public Utilities Corporation Act deals with the powers and functions of the Executive Chairman —


"10 (1) — Subject to the directions of the Corporation, the Executive Chairman shall have supervision over and direction of the day-to-day affairs of the Corporation and shall be its chief executive officer.

(2) — The Corporation may delegate to the Executive Chairman such of its powers necessary to enable him to transact effectively the day-to-day affairs of the Corporation.

(3) — The Executive Chairman shall have power to sign instruments and documents on behalf of the Corporation and is empowered to delegate that power to any member or employee of the Corporation."

- [5] I have considered the application and the objection. I agree with learned counsel that deponent has no power to make the affidavit. Deponent is not the Executive Chairman of the Public Utilities Corporation. Deponent is employed by the Public Utilities Corporation as an "*electrical engineer*". Under section 10 (3) of the Public Utilities Corporation Act, the Executive Chairman may delegate the power to sign instruments and documents on behalf of the Corporation to any member or employee of the Public Utilities Corporation. The affidavit, made by deponent, does not exhibit any such delegation. I agree with counsel that the irregularity cannot be cured.
- [6] In light of the above, the court will not receive the affidavit. I dismiss the application.
- [7] I grant leave to re-file the affidavit after it has been corrected and re-sworn.
- [8] I make no order as to costs.

Signed, dated and delivered at Ile du Port on 7 September 2016


F Robinson
Judge of the Supreme Court