

**IN THE SUPREME COURT OF SEYCHELLES**

**Civil Side: MA 60/2017**  
**(arising in CS 44/2013)**

**[2017] SCSC 199**

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**MICHEL GERIS SIMEON**

Applicant

versus

**JEANNE D'ARC DOREEN DIALLO**

Respondent

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Heard: 6<sup>th</sup> March 2017

Counsel: Mrs. A. Amesbury for applicant

Delivered: 6<sup>th</sup> March 2017

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**ORDER ON MOTION**

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**M. Twomey, CJ**

The parties were common law partners and their relationship came to an end about 10 years ago.

At the time the parties were living together they were sharing tenancy in a house owned by Seychelles Housing Corporation. After the Respondent left the house the Applicant continued living in the house. He has sworn an affidavit on the 21<sup>st</sup> day of February 2017 in which he has deponed that the matter which was undergoing mediation has not been

completed and the matter referred back to the trial Judge, Judge Renaud to hear the matter. He has deponed that since the mediation proceedings the Respondent's children have since moved into the house without the permission of the applicant. The Respondent herself and her partner come and go into the premises.XThe Applicant by the present suit seeks an order of interlocutory injunction in pursuance to the provisions of Sections 121, 122, 123, and 204 of the Seychelles Code of Civil Procedure, Cap 213, as read with the provisions of Section 5 and 6 of the Courts Act, Cap 52. As I have stated in support of his application, the Applicant has filed an affidavit. He has also today supported his application by a testimony in this Court.Injunctions are equitable in nature and in such applications the Court is guided by three considerations;whether there is a serious issue to be tried;whether the damage would be inadequate to address the harm caused by the grant of the injunction; andwhether on a balance of convenience it would be just to grant rather than deny the injunction. (See *Techno International versus Georges. It is an unreported case 147 of 2002*) Further in *Dhanjee versus Electoral Commission, 2011, SLR 141* the Court interpreted the balance of convenient test to include the consideration of the following factors;whether more harm would be done by granting or refusing the injunction; whether the risk of injustice is greater if the injunction is granted than the risk if injustice if it is refused; andWhether the breach of the appellant's rights would out hold the rights of others in society. On the face of the pleadings and the affidavit and in the light of the authorities above I am satisfied that the Applicant appears to be have a *bona fide* claim against the Respondent in the main suit. I am further satisfied that unless the Court grants the interlocutory injunction as sought by the Applicant in this matter the Applicant will suffer substantial and irreparable loss, hardship and inconvenience in the event that judgment is given in his favour. In the circumstances I issue a writ of injunction against the Respondent and/or any third parties prohibiting them forthwith from entering and remaining in the Applicant's home, namely, the house at Roche Caiman, Mahe.A copy of this order is to be served on the Respondent.

Signed, dated and delivered at Ile du Port on 6<sup>th</sup> March 2017

M. Twomey  
Chief Justice