

**IN THE SUPREME COURT OF SEYCHELLES**

**Civil Side: MA288/2014**

**Arising CS66/2014**

**(2018) SCSC 287**

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**SELMON CHANG TIME**

Petitioner

versus

**LEEROY JEAN BAPTISTE & ORS**

Respondent

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Heard: 23 March 2018

Counsel: Mr France Bonte for petitioner

Mr Elvis Chetty for respondent

Delivered: 23 March 2018

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**RULING**

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R. Govinden, J

The Applicant has filed a Notice of Motion for an order of interim injunction against the Respondents restraining them, their servant or agent from disturbing, harassing, molesting, instigating and threatening assault and to keep away from the Applicant and his person by 50 meters and to hear this matter as extreme urgency.XThe Applicant deponed to an Affidavit in which he aver that he live at Anse Aux Pins and he is the neighbour of the Respondents. He avers that for the past years since 2014 they have been the author of continuous harassment and threats towards him and his family..He aver that on 13<sup>th</sup> of July 2014 at around 9.00 a.m he was

verbally assaulted and threatened by the Respondents and the Police had to come. He claims that whenever he passes the Respondents on the public road, they verbally abused him and even threatened to set fire to his transport. The Applicant avers that he fears for his life especially when he passes the Respondents' House. The Applicant avers that the Respondents even blocked the access road he is not allowed to pass with his transport. The Applicant avers that the Respondents have hence committed a fault in law. The Applicant further avers that unless restrained the Respondents will continue to disturb, harass, molest, instigate and assault the Applicant. On the other hand the 5<sup>th</sup> Respondent swore to an Affidavit dated 24<sup>th</sup> of November 2014 and deny to have ever singly or jointly harassed or threatened the Applicant or his family. The 5<sup>th</sup> Respondent avers that the Police was called to the place of the Applicant on the 30<sup>th</sup> of July 2014 to request that the Applicant move his vehicle which had been parked and was blocking the common use of the road. The 5<sup>th</sup> Respondent further avers that he himself and the other Respondents have never abused the Applicant or threatened to set fire to the Applicant's vehicle. The 5<sup>th</sup> Respondent claims that the Applicant has instituted the suit out of malice and that the Respondents have neither blocked the public access road and had neither attempted to disturb, harass or intimidate the Applicant. The 5<sup>th</sup> Respondent to the contrary avers that it was the Applicant who harassed and intimidated him. So much so that on the 8<sup>th</sup> of November 2014, the Applicant illegally rubbed a flag on to his vehicle. In his submission in favour of the Applicant, Mr Bonte submitted that the Applicant has been so badly affected so that he would have had to move his child from Anse Aux Pins Primary School and put him in a Private School because of bullying by children of the Respondents. And that this has caused extra expenses for the Applicant. He submitted that though the Motion dates back to 2014, the situation on the ground is still the same today on an on and off basis. Mr Chetty for the Respondents submitted that an injunction in this case is not called for as the Court would shortly pronounce on the finality of the case. Mr Chetty suggested that the Court apply the Probation Report services recommendation as submitted to the Court which recommended that the parties keep the peace. He submitted that his client undertakes to keep the peace and that since the incident took place they have kept the peace in good faith. Mr Chetty submitted that the dispute is not one sided but double sided. He moves that the Court dismiss the Application and warn the parties to keep the peace. Counsel for the Respondents dispute the fact that the child of the Applicant left the Public School as a result of the children of the Respondents. He further submitted that at no point in time did the Respondent block any

access road of the Applicant. The Applicant is seeking an interlocutory injunction in pursuance to the provision of Section 121, 122, 123 and 204 of the Seychelles Civil Procedure Code as read with the Provision of Section 5 and 6 of the Court's Act. Injunctions are equitable remedies and in such applications the Court is guided by three principles Whether there is a serious issue to be tried. Whether the damage would be inadequate to address the harm. Whether on a balance of convenience it would be just to grant rather than deny the injunction. Further in *Dhanjee v/s Electoral Commission 2011*, the Court interpreted the balance of convenience 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 of injustice if it is refused and Whether the breach of the Appellant's rights would outweigh the rights of others in society I take into consideration the Probation Report sought for by the court in this case and its final recommendation that all parties are warned to keep the peace. I am also aware of the fact that the Learned Judge Renaud has already warned the parties to keep peace. And that despite of that there exist a spirit of antagonism between the parties and that on and off the harassments and intimidations continues. On the face of the pleadings and the Affidavit and in light of the submissions I am satisfied that the Applicant appears to have a bona fide claims against the Respondents 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 substantial and irreparable loss, hardship and inconvenience. In the circumstances I issue a writ of injunction against the Respondents prohibiting them, their servant or agents from disturbing, harassing, molesting, intimidating and threatening assault and to keep away from the Applicant and his person. I Rule accordingly.

Signed, dated and delivered at Ile du Port on 13 March 2018

R. Govinden  
Judge of the Supreme Court