

**SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2020] SCSC 154  
MA 358/2019  
Arising in MC 80/2019

In the matter between:

**THE REGISTRAR OF COMPANIES**  
*(rep. by Corine Rose)*

**Petitioner**

and

**DOMINIC CAMILLE**  
*(rep. by John Renaud)*

**Respondent**

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**Neutral Citation:** *The Registrar of Companies v Dominique Camille* MA 358/2019 Arising in MC 80/2019 [2020] SCSC 154, 26th February 2020.

**Before:** Judge Pillay

**Summary:** The Petitioner seeks an order of the Court to strike out the third Defendant as a party in matter under section 115 Seychelles Code of Civil Code.

**Heard:** By way of submissions

**Delivered:** 26<sup>th</sup> February 2020

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**ORDER**

In the circumstances the Petitioner, the third Defendant in the main case, is struck out as a Defendant in the matter.

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**RULING**

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**PILLAY J**

- [1] The Petitioner moves the Court under section 115 of the Seychelles Code of Civil Procedure for the Third Respondent, being the Registrar of Companies and the Petitioner in the instant application, to be struck out as a party to the Petition filed by the Respondent in the instant case, Petitioner in the main case.
- [2] The Application is supported by an affidavit wherein the Registrar of Companies, Wendy Pierre, deponed that there was no requirement for the third Respondent to be joined as a party to the Petition before the Court.
- [3] She also deponed that in paragraph 4 of the Petition the Respondent, Petitioner in the main case, states that the Registrar of Companies was joined as a friend of the Court. According to her therefore the Respondent does not have any cause of action against the Petitioner, the third Respondent in the main case, but merely made the third Respondent, the Petitioner in the current application, a party to provide assistance to the Court.
- [4] Counsel for the Respondent, Petitioner in the main case, resisted the motion arguing that section 115 of the Seychelles Code of Civil Procedure does not support the motion. Counsel referred the Court to the case of **Ramkalawan v Electoral Commissioner CC 1 of 2016, MA 13 of 1916.**

- [5] Section 115 of the Seychelles Code of Civil Procedure provides as follows:

*Any application to add or strike out or substitute a plaintiff or defendant may be made to the court at any time before trial by motion, or at the trial of the action in a summary manner.*

- [6] Of relevance is also section 112 of the Seychelles Code of Civil Procedure which reads in part as follows:

*...The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the names of any persons improperly joined, whether as plaintiffs or defendants, be struck out, and the names of any parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the cause or matter, be added.*

- [7] Counsel for the Respondent, (Petitioner in the main case) referred the Court to the case of **Ramkalawan v Electoral Commissioner CC 1/16, MA 13/16.** Having obtained a copy of the said judgment from the library it is noted that the case is a Constitutional Court case. The judgment was of no relevance to the issue at hand. However I could not get hold of a copy of the decision in the MA. In any event I note that the case emanating from the Constitutional Court there is specific provision in Rule 3 (3) of the Constitutional Court (Application, Contravention, Enforcement or Interpretation of the Constitution) Rules for the Attorney General to be made a respondent in all Constitutional Petitions if the Attorney General is not the Petitioner.
- [8] There is not similar provision in the Seychelles Code of Civil Procedure.
- [9] Counsel also the Respondent provided the Court with an extract from Black’s Law Dictionary which defines amicus curiae as “someone who is not a party to a lawsuit but who petitions the court or is requested by the court to file a brief in the action because the person has a strong interest in the subject matter”.
- [10] By adding the Petitioner as the third Respondent in the main case, the Respondent, Petitioner in the main case, has joined the Petitioner, third Respondent, as a party to the case and not as amicus.
- [11] When a party is joined in a suit before the court the test is whether or not the presence of the said Defendant is necessary to enable the court to adjudicate upon and settle all questions involved in the cause or matter, as per section 112 above. In the instant case the Respondent, Petitioner in the main case, has not shown how the presence of the Petitioner, the third Defendant in the main case, is necessary to enable the court to adjudicate upon and settle all questions in the cause or matter.
- [12] Noting the above this Court is satisfied that the presence of the Petitioner, the third Defendant in the main case, as a party to the matter, is not necessary in order to determine all issues between the parties.

[13] In the circumstances the Petitioner, the third Defendant in the main case, is struck out as a Defendant in the matter.

Signed, dated and delivered at Ile du Port on 26<sup>th</sup> February 2020

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Pillay J