

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC682
MC7/2019

In the matter between:

Theodore Edmond	1st Petitioner
of Anse Aux Pins, Mahe	

Lucy Edmond	2nd Petitioner
of Anse Aux Pins, Mahe	

Michel Chetty	3rd Petitioner
of Anse Aux Pins, Mahe	

The estate of late Dauphine Julienne	4th Petitioner
Represented by Michel Chetty	
of Anse Aux Pins, Mahe	

Rita Victorin	5th Petitioner
<i>(All rep by Mr J Camille)</i>	

Vs

Andre Joseph Chetty	Respondent
of Anse Aux Pins, Mahe	
<i>(rep by Ms A Benoiton)</i>	

Neutral Citation: Theodore Edmond & Ors v *Andre Chetty* (MC 7/2019) [2020] SCSC 682

25 October 2021).

Before: Govinden CJ

Summary:

Heard: 17 August 2020

Delivered: 25 October 2021

ORDER

The court order the division in kind or parcel S 71 and extract the following share entitlement of the parties which shall be merged with their respective adjacent titles;

Plot (1) shall be merged and amalgamated with parcel S2730

Plot (2) shall be merged and amalgamated with parcel S1970 and S2729, so as to make one parcel with the three.

Plot (3) shall be merged and amalgamated with parcel S471 and S127, so as to make one parcel with the three.

Plot (4) shall be merged and amalgamated with parcel S1693.

Plot (5) shall be merged and amalgamated with parcel S 469.

The Respondent shall be compensated for his share on S 71, which comes to SCR 17,804 and also be compensated for inconvenience and loss that he would incur as a result of using alternative access to go to his dwelling house. He shall be compensated in the sum of SCR 60,000 for this. The Petitioners shall accordingly pay to the Respondent the total sum of SCR 77,804 in equal proportions.

The Registrar of Lands shall not accept the registration of the aforementioned amalgamation until she is fully satisfied that the Respondent have been compensated in accordance with this decision.

A typographical error in the court's previous decision corrected. In the 1st paragraph of page 10, 3rd line from the top, parcel S270 appears, this should read as parcel S 2730. The court applies the "Slip Rule" under Section 147 of the Civil Procedure Code and correct it accordingly.

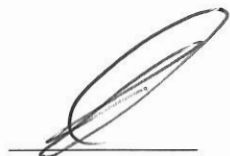
RULING

GOVINDEN CJ

- [1] In its decision dated the 13th of May 2021 the court determined that in order do justice to all parties in this case there was a need to transfer portions of S71 that lies parallel and immediately adjacent to each of the respective properties of the petitioners to the petitioners and at the same time for S71 to be valued so that each of the parties contribute in equal shares in the compensation of the Respondent of his undivided share in S71. For this reason I ordered that the Petitioners and the Respondent each produce evidence of the value of the said parcel by an affidavit or a report from a Quantity Surveyor. In accordance to this decision the parties have produced a joint Quantity Surveyor's Report.
- [2] The Report, which is made by Ms Thyra Laporte has been placed on record of this court. She has assessed the current market value of S 71 as SCR 89, 020.00. The court will take it that this is the agreed value for the said parcel.
- [3] For the purpose of this order I attached herewith Exh P2, being the plan Propose subdivision of parcel S71 tendered by the Land Surveyor , M Ah kong, which shall be an annexed to these Orders. This plan has subdivided the parcel into 5 plots and are designated as plot (1) to plot (5).
- [4] I accordingly make the following orders;
- [5] I order the division in kind of parcel S 71 and extract the following share entitlement of the parties which shall be merged with their respective adjacent titles;

- [6] Plot (1) shall be merged and amalgamated with parcel S2730
- [7] Plot (2) shall be merged and amalgamated with parcel S1970 and S2729, so as to make one parcel out of the three
- [8] Plot (3) shall be merged and amalgamated with parcel S471 and S127, so as to make one parcel with the three.
- [9] Plot (4) shall be merged and amalgamated with parcel S1693.
- [10] Plot (5) shall be merged and amalgamated with parcel S 469.
- [11] This will leave the Respondent as the only co-owner of parcel S71 who will not benefit from this division in kind. The current market value of the share of the Respondent would come to one fifth of SCR 89.020.00, which comes to SCR 17,804. I also order that the Respondent be compensated for any inconvenience and loss that he would incur as a result of using alternative access to go to his dwelling house. He shall be compensated in the sum of SCR 60,000. The Petitioners shall accordingly pay to the Respondent the total sum of SCR 77,804 in equal proportions.
- [12] The Registrar of Lands shall not accept the registration of the aforementioned amalgamation until she is fully satisfied that the Respondent have been compensated in accordance with this decision.
- [13] I have noted a typographical error in the court's previous decision. In the 1st paragraph of page 10, 3rd line from the top, parcel S270 appears, this should read as S 2730. I apply the "Slip Rule" under Section 147 of the Civil Procedure Code and correct it accordingly.
- [14] This decision shall be served upon the Registrar of Lands, Mrs Wendy Pierre.

Signed, dated and delivered at Ile du Port on the 25th October 2021

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by 'ovinden CJ'. The signature is written over a horizontal line.

Govinden CJ