

**IN THE SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2022] SCSC 737  
CS 124/2020

In the matter between:

**EX PARTE GEORGIE GOMME**  
( *rep. by J Camille* )

**APPLICANT**

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**Neutral Citation:** *Ex parte Georgie Gomme* [2022] SCSC 737 CS 124/2020

**Before:** Govinden CJ

**Summary:** Application to survey land; Application dismissed; lack of evidence

**Heard:** 19<sup>th</sup> November 2020; 7<sup>th</sup> December 2020; 18<sup>th</sup> January 2021; 25<sup>th</sup> January 2021

**Delivered:** 1<sup>st</sup> September 2022

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**ORDER**

Application dismissed.

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**JUDGMENT**

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**R GOVINDEN, CJ**

**The background and Pleadings**

[1] The applicant has filed a Notice of Motion *ex parte* in which he moved the court for an order to grant him leave to carry out the survey of a portion of unsurvey land situated at Baie Ste Anne Praslin, through the appointment of a Land Surveyor. In his affidavit in support to the application, the applicant makes the following averments;

- [2] *I state that on the 15<sup>th</sup> October 2018 I was appointed as the executor to the estate of the late Cecilia Lanmour Anacoura, in pursuance to a Supreme Court order, dated 15<sup>th</sup> October 2018. There is now attached shown to me and marked as **Exhibit A1**, copy of the same Court appointment.*
- [3] *I state that at the time of her death the late Cecilia Lanmour Anacoura was the owner and proprietor of unsurveyed land, situated at Baie Ste Anne, Praslin, by virtue of a sale agreement made on the 13<sup>th</sup> August 1902. There is now attached shown to me and marked **Exhibit A2**, copy of the same sale agreement.*
- [4] *I state that to this day the land remain unsurvey and does not reflect on the new land registry.*
- [5] *That the estate is desirous to have the land survey so as to have the land registered onto the new land registry and in that regards, has attained the services of Land Surveyor Mr. Antoine Ah-Kong to undertake the survey works.*
- [6] *That I pray that the Court be pleased to order the land surveyor Mr. Antoine Ah-Kong to carry out the survey of the land identified in **Exhibit A2**.*

[2] Crucial to the applicant case therefore is the fact that the late Cecilia Lanmour Anacoura was the owner and proprietor of an unsurveyed land, situated at Baie Ste Anne Praslin, by virtue of a sale agreement made on the 13<sup>th</sup> of August 1902. It is from this premise that the right of the applicant and other heirs will be derived. They will have no right to survey or caused to be surveyed a property in which they do not have any interest. Hence, he needs to prove this fact on a balance of probabilities.

[3] I have thoroughly considered the application and its supporting affidavit and the evidence and submission tendered by the applicant. The credibility of the witnesses has been tested by the court, especially given that this is an ex parte proceedings.

- [4] The first hurdle that the applicant met is that there are two separate agreement who he says consist of the sale agreement. One he deponed to it as A2 in his affidavit and another that he and his witnesses produced in court as Exh A4. The One attached to his affidavit was “withdrawn” by his counsel, however the applicant has not satisfactorily convinced the court how he made such a vital mistake. That was only picked up by the court.
- [5] His second difficulty lies in his attempts to establish the content of the Exh A4. The person who he tendered to court as being the translator, Mr Belle, did not translate the original sale document but had relied on a typed copy in French language of an assistant Archivist and neither could tell the court as to whether his translation or the document that he relied upon true and correct and represent an exact translation of the sale agreement.
- [6] Thirdly, and more importantly, as a result of somebody else typing the document and not relying on the original document Mr Belle omitted to translate the whole sale agreement, including the most important part being the signatures, of which he missed one. His work was clearly not up to the mark and it left the court in doubt both as to his competency and credibility. At some point in his testimony he even mistook the agreement appended to the affidavit as A1 to the one produced in court.
- [7] In my final analysis, therefore, I find that the applicant has failed to established on a balance of probabilities that the transcribed sale agreement produced by him in evidence proves that the late Cecilia Lanmour Anacoura was the owner and proprietor of unsurveyed land, situated at Baie Ste Anne, Praslin, by virtue of a sale agreement made on the 13<sup>th</sup> August 1902. As a result I do not find that the applicant has any property rights or interest in the said land and thus the application is accordingly dismissed.

Made at Ile du Port on this 1<sup>st</sup> day of September 2022

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R. J. Govinden  
Chief Justice