



latter to be declared as his father. He avers in his plaint, that he is the biological child of the Defendant and one Gilbertte Cecile Adelaide. He avers that the Defendant is an Austrian citizen, domiciled and resident in Austria and represented by the said Gilbertte Cecile Adelaide in these proceedings, as his agent, by virtue of a power of attorney dated the 17<sup>th</sup> May 2022 and registered in Register A63 No. 2610.

[2] The plaintiff avers that he is the issue of a relationship between the Defendant and his mother; that he has enjoyed possession of status accordingly; that the Defendant recognises him and treats him as his child; that the Defendant has always treated him as his child and maintained him as such; and that he has always been recognised as the Defendant's child in society. The plaintiff avers that the Defendant has no objections to the present action before this Court, and that he has by virtue of the above-mentioned power of attorney authorised Gilbertte Cecile Adelaide to accept judgement in this matter on his behalf. On that basis the Plaintiff avers that he should be declared as the child of Ludwig Wodicka and entitled to bear his name.

[3] The Plaintiff therefore prays this Court for the following –

- a) To declare that Ludwig Wodicka is his biological father;
- b) To order the Chief officer of Civil Status to rectify the Plaintiff's Act of Birth accordingly;
- c) To amend the name of the Plaintiff to reflect "Mathieu Giles Eldrick Adelaide-Wodicka"; and
- d) To make any other order that the Court deems fit.

[4] Gilbertte Cecile Adelaide, having been served with the Plaint in her capacity as agent of the Defendant appeared in Court and admitted the Plaint. The matter was consequently fixed for ex-parte hearing.

[5] At the hearing, the Plaintiff, who resides at Baie Lazare, Mahe, in essence confirmed the matters averred the plaint. He testified that to the best of his knowledge the Defendant and his mother were in a relationship at the time of his conception. He further stated that

at all times the Defendant recognised and treated him as his son, and that all his family members know that the Defendant treated him as such and that the Defendant is his father. The Plaintiff also stated that the Defendant has at no point raised any objections to the Plaintiff being declared as his son.

[6] Upon clarification being requested by the Court, the Plaintiff stated that he had been living only with his mother since his birth, but that his father often comes to Seychelles and that they see each other when he does. His father treats him as his child and also introduces him to other people as his child. He has also visited the Defendant in his home country and has a good relationship with the Defendant's current wife and the Plaintiff's half-sisters – the Defendant's children from a previous marriage.

[7] The Plaintiff also produced a copy of his Certificate of Birth certifying that Mathieu, Giles, Eldrick Adelaide was born on 8<sup>th</sup> July 1986 and his birth registered in Civil Status Register No. 900 of 1986. C, which was admitted as Exhibit P1. In the Certificate of Birth his mother's name is entered as Gilberte Adelaide, but no father's name is entered therein. He also produced as Exhibit P2 an "Appointment of Agent" dated 17<sup>th</sup> May 2022 signed by Ludwig Wodicka before Notary Public Lucie A. Pool, appointing Gilbertte Cecile Adelaide as his "true and lawful Attorney-in-Fact and Agent and in [his] name, place and stead" *inter alia* "to appear and represent [him] in legal proceedings before the Supreme Court of Seychelles in any matter brought by Mathieu Giles Eldrick ADELAIDE against [him] or [his] estate including that to establish his paternal descent, currently or to be filed ... and to do all acts, matters and things incidental and connected therewith including accepting the judgment and particulars therein". The document was registered on 6<sup>th</sup> June 2022 with the Registrar General.

[8] Gilbertte Cecile Adelaide testified that she is the mother of the Plaintiff. She stated that she was in a relationship with the Defendant during the time that the Plaintiff was conceived, that he was the only person she was in a relationship with at the time, and that she is certain that the Defendant is the Plaintiff's father. According to her, while the Plaintiff was growing up, the Defendant treated him as his son. Whenever he was overseas he used to send letters asking about the Plaintiff and his wellbeing.

[9] She stated that although she has never visited the Defendant in his home country, she met him when he came to Seychelles. He gave her a power of attorney in May 2022 to assist in having the plaintiff's paternity declared, and he had no objections to a case being filed for the same. She stated that the Plaintiff should be declared as the child of the Defendant and that she had no objections to this.

[10] In response to the Court's enquiry, she stated that the Defendant did not acknowledge the Plaintiff as his son because he was not in the country at the time of his birth and she had to go and declare his birth on her own.

[11] Proof of the descent of a child and of parenthood is dealt with in The Civil Code of Seychelles Act. Article 376 provides as follows –

*376.(1) The descent of children shall be proved by their acts (actes) of birth.*

*(2) In the absence of an act of birth, the possession of status (possession d'état) of the child is sufficient.*

[12] Article 373 further provides -

*373. Proof of parenthood, maternal and paternal, may be established by all relevant facts or by possession of status (possession d'état).*

[13] Article 377 contains provisions setting out the circumstances in which possession of status (referred to in Articles 376 and 373 above) may be established. It reads as follows:

*377.(1) Possession of status (possession d'état) may be established when there is a sufficient coincidence of facts indicating the relationship of descent and parenthood between a person and the family to which the person claims to belong.*

*(2) The principal facts are—*

*(a) That that person has always borne the name of the parent whose child he or she claims to be;*

*(b) That the parent has been treating him or her as his child and that, in his capacity as parent, he has provided for his or her education, maintenance and start in life;*

*(c) That he or she has always been recognised in society as a child of that parent;*

*(d) That he or she has been recognised as such by the family.*

Emphasis is mine.

[14] I have considered the testimony of the Plaintiff and his mother. I have also taken into account that the Respondent has through his legally appointed agent admitted the Plaintiff. On that basis, I am satisfied on a balance of probabilities that the Plaintiff is, in accordance with Article 377 in possession of status of a natural child of the Defendant as provided in Articles 373 and 376(2),

[15] Accordingly I declare that the Defendant Ludwig Wodicka is the biological father of the Plaintiff Mathieu Giles Eldrick Adelaide, and make the following Orders -

(a) The Chief officer of Civil Status is directed to rectify the Plaintiff's Act of Birth by entering therein the name Ludwig Wodicka as his father's name, and changing the Plaintiff's surname from Adelaide to Adelaide-Wodicka.

(b) A copy of this judgment is to be served on the Chief Officer of the Civil Status.

Signed, dated and delivered at Ile du Port Victoria on 24<sup>th</sup> February 2023

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Carolus J