

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC 621
MA 172/2022
Arising in MC 65/2021

In the matter between

PASCAL ALEXIS
(*rep. by Serge Rouillon*)

Petitioner

and

PATRICK ALEXIS
(*rep. Jean-Marc Lablache*)

1st Respondent

ATTORNEY GENERAL
(*rep. by Ketlyn Marie*)

2nd Respondent

Neutral Citation: *Alexis v Alexis & Anor* (MA172/2022 [2023] SCSC 621)
Before: C G Dodin J.
Heard: 24th November 2022 and written submissions
Delivered: 4th August 2023

RULING

DODIN J.

- [1] This ruling concerns a motion filed by one Robert Alexis who intends to intervene in case MC 65/2021. Case MC 65/2021 is a Petition by Pascal Alexis for an interdiction order against the 1st Respondent Patrick Alexis and for the Petitioner be appointed the legal guardian of the 1st Respondent. The Petitioner is the brother of the 1st Respondent. The intended Intervener is the cousin of the 1st Respondent who has current de facto custody of the 1st Respondent.
- [2] The Petitioner objects to the intended Intervener's motion raising several issues none of which addresses the legal position of the Intervener in this motion but rather certain contestable fact which need to be proved at a hearing of the case MC 65/2021. No

disrespect is intended towards learned counsel for the Petitioner but the matter at hand to be decided is whether the Applicant is given legal status by law or otherwise to intervene in the Petition. The Court understands the probable animosity caused by this matter amongst the relatives but at this stage the focus should be on the legal status of the intended intervener. In that regards the Affidavit in Reply by the Petitioner and submission of learned counsel for the Petitioner has not been of much assistance to the Court at this stage.

[3] Learned counsel for the Attorney General, (Ministere Publique) raised a point of law in respect of the motion by Robert Alexis or intervention. The Ministere Publique submitted that article 117 of the Seychelles Code of Civil Procedure, an application for intervention by a person having interest can be made in a civil suit and does not include a matter that is commenced by Petition. Learned state Counsel referred the Court to the case of *Morin v Ministry of Social Affairs SLR 2011* where the Court held that a suit or action in civil proceedings is commenced by plaint. Since this Petition is not a suit or action, the Applicant cannot intervene in this matter.

[4] Article 117 of the Seychelles Code of Civil Procedure states:

“Every person interested in the event of a pending suit shall be entitled to be made a party thereto in order to maintain his rights, provided that his application to intervene is made before all parties to the suit have closed their cases.”

Article 2 of the Civil Procedure Code defines a “suit” or “action” as: “*a civil proceeding commenced by plaint*”.

[5] As stated by the learned State Counsel, the case of *Morin v Ministry of Social Affairs (CS 236 of 2004) [2011] SCSC 107 (10 June 2011)* reflects the state of the law in respect of what type of cause or action an interested person can intervene. It must be a matter commenced by plaint. It does not include a matter commenced by petition.

[6] Learned counsel for the proposed intervener submitted that it is not important the case has been started by petition and not by plaint since both can be termed a cause of action and therefore any person interested should be given the opportunity to be heard. However,

article 2 of the Civil Procedure Code states that "*cause*" shall include any action, suit or other original proceedings between a plaintiff and a defendant". [Emphasis mine]. This reinforces the determination of the Court that even a cause of action does not include a petition.

[7] Consequently, on this point of law, the motion filed by the intended intervener cannot be granted and is dismissed accordingly.

Signed, dated and delivered at Ile du Port on 4th August 2023.



C G Dodin.

Judge