

SUPREME COURT OF SEYCHELLES

Redact
[2021]
CS 15/2021

In the matter of:

**GERRY VINCENT HENRI
(AKA) HENRY**
(rep. by Amanda Faure)

Plaintiff

v/s

HEIRS OF THE LATE GILBERT

Defendant

WESLIE LEPATHIE (AKA) LEPATHY

Rep. by ERNEST BERNARD LEPATHY

(unrepresented)

Neutral Citation: *Henri v Heirs of the Late Weslie Lepathie* (CS 97/2023) [2023] (10th November 2023).
Before: Pillay J
Summary: Proof of paternity
Heard: 25th October 2023
Delivered: 10th November 2023

ORDER

- (1) The deceased the late Gilbert, Weslie Lepathie, is declared the father of Gerry, Vincent Henri also known as Gerry Vincent Henry.*
 - (2) I hereby order the Chief Officer of the Civil Status to enter the name of the deceased on the birth certificate of Gerry, Vincent Henri also known as Gerry Vincent Henry.*
 - (3) The Chief Officer of the Civil Status shall be served with copy of this order.*
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JUDGMENT

PILLAY J

- [1] The Plaintiff, Gerry, Vincent Henri also known as Gerry Vincent Henry, bearing identity number 978-0109-1-1-69, alleges that the late Gilbert, Weslie Lepathie also known as Lepathy, who died in Seychelles on 1st February 2023 is his father.
- [2] The Plaintiff was born on 5th January 1978 in the Republic of Seychelles and his birth was not acknowledged by the deceased. The Plaintiff alleges that the deceased has always maintained and supported him. He was recognised and treated as the deceased son by known relatives of the family. The Plaintiff has always cohabited with his mother and the deceased from his birth until the deceased passed away on 1st February 2023. The deceased sister is the Plaintiff's god-mother.
- [3] Service was effected on Ernest Bernard Lepathy for the Defendant who put up appearance on 25th October 2023 and conceded to the Plaintiff.
- [4] The law with regard to establishment of paternity is found in Article 377 of the Civil Code of Seychelles which states,
- (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;*
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- (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.*

- [5] In accordance with Article 380 (1) of the Civil Code, there is no prescription of the right of a child to establish his or her parenthood.
- [6] On the basis of the uncontested facts, I accordingly declare that the late Gilbert, Weslie Lepathie also known as Lepathy is the father of Gerry, Vincent Henri also known as Gerry Vincent Henry.
- [7] I hereby order the Chief Officer of the Civil Status to enter the name of the deceased, Gilbert, Weslie Lepathie on the birth certificate of Gerry, Vincent Henri also known as Gerry Vincent Henry.
- [8] The Chief Civil Status Officer shall be served with a copy of this order.

Signed, dated and delivered at Ile du Port on 10th November 2023



Pillay J