

SUPREME COURT OF SEYCHELLES

Reportable

MA 296/2022

Arising from

CS 128 of 2018

In the matter between:

In Re:

THE ESTATES OF JULIEN PARCOU

(rep. by Frank Elizabeth)

Petitioner

and

JILL DEBRA CECILE LAPORTE

(rep. by Bernard Georges)

Respondent

Neutral Citation: *The Estates of Julien Parcou v Laporte* (MA 296/2022) (15 December 2023)

Before: Burhan J

Summary: Application for removal of Inhibition Order

Heard: 18 October 2023

Delivered: 15 December 2023

ORDER

Therefore, the Applicant's application that the inhibition be removed/lifted against parcels of land namely; V6650, V6649, V6647, V6648 and V6652 ("the land parcels") situated at Beau Vallon, Mahe in Seychelles is granted.

RULING

BURHAN J

- [1] This is an application for the removal of an inhibition order filed by the Estates of Julien Kaven Parcou, represented by its executrix Mrs. Rose Parcou ("the Applicant") against Ms. Jill Laporte ("the Respondent") on 23 December 2022 under MA 296 /2022 arising in CS 128/2018. The Applicant herein prays that the Court make the following orders:
- a. The inhibition be removed/lifted against parcels of land namely; V6650; V6649, V6647, V6648 and V6652 ("the land parcels") situated at Beau Vallon, Mahe in Seychelles;
 - b. and such other order as the Court deems fit and proper in the circumstances.
- [2] The Applicant was the wife of the late Julien Kaven Parcou ("the deceased") who died on 20 October 2017. She was named executrix of deceased's Estates in the latter's will, wherein deceased also bequeathed all his properties, including all the land parcels (which comprises of their matrimonial home) situated at Beau Vallon in Mahe. On 23 November 2018, the Court under MA 260/2018 granted, in terms of section 76(1) of the Land Registration Act, an inhibition order directing that *"the registration of any dealings with [the parcels] be inhibited until the final disposal of suit CS 128 of 2018 or until any further order of this court."*
- [3] By judgment dated 11 November 2019, the Court declared the deceased as the father of the Respondent, and further ordered that Respondent's birth certificate be rectified accordingly to reflect the change in her status. This judgment was affirmed by the Court of Appeal under SCA 63/2019 on the 29th April 2022. Following the application for the removal of the inhibition order, the Respondent on 7th March 2023 applied for a declaration that: the disposition in the will contravenes the law; to reduce the disposition so as to ensure that the Applicant as reserved heir in deceased's estate receives the portion of said estate to which she is entitled; or, to order that the Respondent be compensated for her share of the deceased's estate.

] In her application, the Applicant avers that the land parcels which are the subject of the inhibition order are presently in a serious state of dilapidation and infested with vermin and therefore unfit for human occupation, as they are a serious danger to health.

] The Applicant states that given the present circumstances, she plans to demolish and rebuild the property into a modern facility with additional apartments (herein referred to as "the project.") To that end, Applicant has approached the bank for a loan to finance the project, which the bank has indicated its willingness to advance on the condition that the parcels of land are used as collateral for the loan. The Applicant reasons this would be impossible given the present restrictions over the said parcels, thereby adducing reasons for the inhibition to be removed /lifted to enable the parcels of land to be mortgaged.

] On the 14th March 2023, and in submissions dated the 20 April 2023, the Respondent responded to the Applicant's averments denying most of the Applicant's submissions. The Respondent asserts that she has been declared the child of the deceased by the Court and in law and she is therefore entitled to a half share of the deceased's estate. That despite the declaration of the Court, supported by the Court of Appeal, that Applicant refused/neglected to share an inventory of the estate of the deceased with the Respondent or to engage with the Respondent to share the estate.

] Counsel for the Respondent has resisted lifting of the inhibition order on the basis that the Applicant has refused/failed to engage the Applicant on the final disposal of the deceased's estates as per the Court's order, and seeks that it remains under the said restriction until the Court makes a ruling on the plaint filed on the 7th March 2023. These same arguments were maintained at the time of hearing.

3] When one considers the wording of the inhibition order granted, and as illustrated above, it reads as follows: "*the registration of any dealings with parcels V6650, V6649, V6647,*

V6648 and V6652 be inhibited until the final disposal of suit CS 128 of 2018 or until any further order of this court." Therefore, the wording of the order itself can only be interpreted to mean that the matter was effectively dispensed with fully with issuance of the judgment in the main action, which in this case was confirmed on appeal. Therefore, the inhibition order cannot be extended as requested by the learned Counsel for the Respondent for the grounds stated by him also refer Section 76(1) of the Land Registration Act CAP 107.

- [9] Learned Counsel for the Respondent refers to a recent plaint filed in on the 7th March 2023 that applied for a declaration that the disposition in the will contravenes the law. It is clear to this Court that the said inhibition given in this case referred to herein was meant to be in force either until the final disposal of this suit or until a further order was given in this suit vacating it, prior to final disposal of this suit. No such order was given, therefore the final disposal of this suit as referred to in the preceding paragraph terminates the inhibition order.
- [10] Therefore, the Applicant's application that the inhibition be removed/lifted against parcels of land namely; V6650, V6649, V6647, V6648 and V6652 ("the land parcels") situated at Beau Vallon, Mahe in Seychelles is granted.

Signed, dated and delivered at Ile du Port on 15 December 2023.



15-12-2023

M Burhan J