

**IN THE SUPREME COURT OF SEYCHELLES**

- |                               |                    |
|-------------------------------|--------------------|
| 1. RENE MONDON                |                    |
| 2. TREFLE MONDON              | <b>Petitioners</b> |
| 3. CLIFFORD MONDON            |                    |
| 4. GERALD MONDON              |                    |
| 5. PHILIP MICHEL MONDON       |                    |
| 6. GHISLAINE SINON nee MONDON |                    |
| 7. JANE ROBERT nee MONDON     |                    |
| 8. JANET HANDRICKS nee MONDON |                    |
| 9. LISETTE HOAREAU nee MONDON |                    |
| 10. MONICA MONDON             |                    |
| 11. ANNE-MARIE MONDON         |                    |

VS.

- |                                 |                   |
|---------------------------------|-------------------|
| 1. YVON MONDON                  |                   |
| 2. YVES MONDON                  | <b>Respondent</b> |
| 3. CLAUDETTE ESPARON nee MONDON |                   |
| 4. FLAVIE LALANDE nee MONDON    |                   |
| 5. MARILYN MAGNAN nee MONDON    |                   |

Civil Side No. 359 of 2005

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Ms. Pool for the Petitioners

**ORDER**

***Gaswaga, J***

The petitioners are applying for a division in kind of parcel T731 measuring a total area of 51, 500 square metres, which land is jointly owned by them and all the five respondents in equal shares (i.e. 1/16 for each one). The petitioners do not wish to remain in a state of indivision and are seeking a division in kind.

All the five respondents, who live in Australia, were duly served with the petition (a return of service filed on record) and are not opposed to the division in kind. One of the respondents, Mr. Yves Mondon was mandated to represent the rest of the respondents and he confirmed that they were all agreeable to the proposed plan of the division in kind and the plots allocated to each one of them. Indeed some of the heirs had already constructed houses on their respective portions of land way back before the lodging of the petition.

The appraiser who was appointed by the Court has now submitted his report together with the survey plan and the report reads as follows:-

**SURVEY REPORT: CASE C.S.NO. 359 OF 2005 – RENE MONDON & ORD v/s YVON MONDON & ORS BOUGAINVILLE, MAHE**

**1. SPECIFICATION:**

To propose the partition of parcel T731 of the total area of 51, 500 square metres, whereby both the petitioners and the respondents are entitled to 1/16<sup>th</sup> share each.

**2. PROCEDURE:**

The field works were undertaken in August 2006 in order to assess the extent of occupation and the terrain.

The property is located in a residential area, with its eastern boundary being the public road. It is of variable terrain with fairly level ground next to the public road with the gradient gradually increasing westwards. Approximately 100 to 125 metres inland, the terrain transforms into a small valley with sides to the north,

west and south. Part of the north and west sides are of very steep gradients. The southern side of the valley is also composed of rocks and boulders.

For the purpose of this partition, the proposal has been considered in terms of its value. A minimum width of 3.5 metres has been allocated for the proposed access road and drain to serve all the proposed plots.

The property has been categorized into three main zones.

Zone 1: The area from the public road to approximately 125 metres inland comprising terrain of fairly gentle slope.

Zone 2: The area at the western end of the property on the hill side which has fairly good development potential.

Zone 3: The areas within the valley and the sought slopes which have limited development potential due to the steepness of the terrain or rocks and boulders.

### **3. VALUATION:**

- (i) Zone 1: Rated at SR125.00
- (ii) Zone 2: Rated at SR75.00
- (iii) Zone 3: Rated at SR25.00

The total estimated value of the property amounts to approximately SR3, 900, 000.00. The net estimated value amounts to SR 3, 800, 000.00 after deduction of the cost for the area covered by the access road and drain. One share amounts to SR 237, 500.00.

#### 4. ALLOTMENT

With reference to the partition plan, the property is presently occupied by six of the stated petitioners, the names of which have been annotated on the plan for ease of reference and allotment.

The proposal for this partition is for all sixteen plots rather than only eleven plots for the petitioners. This is mainly due to the fact that one cannot make the assumption on the individual choice of the five remaining petitioners who have not yet established themselves on the property. The final subdivision following the Court's ruling will be for eleven plots for the petitioners and the remainder for the respondents will be retained as a single plot.

#### PROPOSED PLOTS:

<u>PLOT#</u>	<u>AREA (Sqm)</u>	<u>ALLOTMENT</u>
1	1895	Ghislaine Mondon
2	1885	(Un-occupied)
3	1895	Janet Handricks
4	1895	(Un-occupied)
5	3240	Michael Mondon
6	1895	Rene Mondon
7	2065	Clifford Mondon
8	1895	(Un-occupied)
9	3270	Treflet Mondon
10	2645	(Un-occupied)
11	2040	(Un-occupied)
12	3095	(Un-occupied)
13	4390	(Un-occupied)
14	9095	(Un-occupied)
15	5635	(Un-occupied)
16	3160	(Un-occupied)

**MICHEL LEONG W.Y.**

(Land Surveyor)

Dated: 15<sup>th</sup> November, 2006.

The report and survey plan were not contested. At the sitting of 1<sup>st</sup> February, 2007 at 1.45pm Attorney-At-Law Ms. Pool read out the various names of the heirs and the respective plot numbers allocated to each one of them in open Court. The petitioners were present as well as the representative of the respondents. The allocation stands as herein under:-

- Plot 1 goes to Ghislaine Sinon, she is the 6<sup>th</sup> Petitioner and she has already built a house on that plot.
- Plot 2 is allocated to Anne Marie Mondon, she is the 11<sup>th</sup> petitioner, she resides in Italy and she is being represented by Mrs. Ghislaine Sinon.
- Plot 3 is allocated to Janet Handricks, petitioner number 8.
- Plot 4 is allocated to Gerald Mondon and he is petitioner number 4.
- Plot 5 is allocated to Michel Mondon who is the 5<sup>th</sup> petitioner.
- Plot 6 has been allocated to Rene Mondon who is the 1<sup>st</sup> petitioner. He came this morning but he was not feeling well so he had to go home but everyone agrees to the allocation because he has his house on the plot.
- Plot 7 is allocated to Clifford Mondon who is the 3<sup>rd</sup> petitioner.
- Plot 8 is allocated to Monica Mondon who is the 10<sup>th</sup> petitioner.
- Plot 9 is allocated to Trefle Mondon who is the 2<sup>nd</sup> petitioner. He also came this morning and had to go home but again there is no objection to this allocation.
- Plot 10 is allocated to Claudette Esparon who is the 3<sup>rd</sup> respondent.
- Plot 11 is allocated to Jane Robert who is the 7<sup>th</sup> petitioner.
- Plot 12 is allocated to Lisette Hoareau who is petitioner number 9.
- Plot 13 is allocated to Marilyn Magnan who is the 5<sup>th</sup> respondent and she resides in Australia.
- Plot 14 to Flavie Lalande nee Mondon and she is respondent number 4.
- Plot 15 is allocated to Yves Mondon who is the 2<sup>nd</sup> respondent.

- Plot 16 to Yvon Mondon who is respondent 1 and he also resides in Australia. *(No objections from any of the parties).*

There being no objection to the report and survey plan and the allocation of plots by any of the heirs (petitioners and respondents) the same is approved, the appraiser shall proceed with the subdivision of the land accordingly, and take necessary action for registration.

**D. GASWAGA**

**JUDGE**

Dated this 1<sup>st</sup> day of February, 2007.