

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MC17/2016

[2017] SCSC 26

BASTION LIMITED
HEREIN REPRESENTED BY ITS DIRECTOR CECILE ESPARON
OF MONT-FLEURI, MAHE
Applicant

versus

SUBRAMANIYAN P. PILLAY OF ST. LOUIS, MAHE
Respondent

Heard: 7th day of December 2016
Counsel: Mr. C. Lucas for Applicant
Absent/Unrepresented Respondent
Delivered: 20th day of January 2017

JUDGMENT


Govinden-J

- [1] This is an application for the issue of a writ Habere Facias Possessionem to compel the Respondent, his agents and or servants to quit, leave and to vacate the house situated on Parcel No. V 8618 of St Louis (hereinafter referred to as “the Property”) owned by the Applicant.

- [2] The Application is duly supported by the Affidavit of Marie Cecile Esparon being a Director of the Applicant of the 22nd day of February 2016.
- [3] In the absence of the Respondent who was duly served, the matter proceeded ex-parte against him on the above-indicated date.
- [4] The Applicant appeared through above-mentioned Learned Counsel and produced the above-said Affidavit in support of the Application to the following effect:
- (i) That the Applicant is the owner of the above-mentioned property and same was purchased by the Applicant from the Respondent by virtue of the Transfer deed of the 20th day of July 2015 and duly registered on the 15th day of September 2015 which was exhibited.
 - (ii) That as a human gesture and goodwill, the Applicant gave the Respondent a reasonable notice of two months of the 21st day of December 2015 to vacate the said house which he was in occupation on the property as at the date of the transfer.
 - (iii) That at the expiry of the notice to vacate the house, the Applicant's directors on several other occasions verbally requested the Respondent to vacate the property but he failed to do so and has illegally continued to possess, occupy and control the house situated on Title V 8618 without the Applicant's authority and or consent.
 - (iv) That albeit notices both in writing and verbal, Respondent has shown no intention to vacate the house and he continues to occupy and possess the same after the transfer and by doing so the Respondent has denied the Applicant its legal right of occupation and possession of the property.

- (v) That the Respondent has no claim or right to occupy the property whatsoever and it moves the Court to grant the Application for same is needed for reasons above-stated.
- [5] The law with regards to the grant of a “writ habere facias possessionem” is well settled in this Jurisdiction. The vital principles governing the grant of such writs are provided the following elements are present together-
- (i) If it is to eject a person occupying property merely on the benevolence of the owner, such a person should have neither right nor Title over the said premises;
 - (ii) If it is the only remedy available; and
 - (iii) If there exist an alternative recourse, then it is advisable that the Applicant should apply for it.
- [6] The above principles according to the law are in my belief relevant in the instant Application.
- [7] The Respondent is according to the uncontroverted evidence of the Applicant’s representative, who is the sole owner of the property, in occupation of same by virtue of a “human gesture and goodwill” following the transfer of the 20th day of July 2015 for a period of two months.
- [8] It is thus clear that based on the above uncontested evidence, the Respondent has neither Title nor right to the property hence absence of proof of a genuine interest in the property hence no good defence. It follows therefore that on that basis I allow this Application and I order the Respondent and or his agents and or servants to quit, leave and to vacate the property owned by the Applicant forthwith.

Signed, dated and delivered at Ile du Port on 20th day of January 2017.



The image shows a handwritten signature in blue ink, which appears to be 'S. Govinden', written over a circular official seal. The seal contains the text 'Samia C. B. Govinden', 'SUPREME COURT', and 'SEYCHELLES'. The signature is written in a cursive style, with the name 'S. Govinden' clearly legible.

S. Govinden
Judge of the Supreme Court