

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MC 15/2018

[2018] SCSC 362

MICHAEL GREEN
Petitioner

versus

DANIEL KIM KOON
Respondent

Heard: 10th April, 2018
Counsel: Ms. V. Gill for petitioner
Mr. K. B. Shah for respondent
Delivered: 10th April, 2018

RULING

E. Carolus, J

[1] The Petitioner has filed an Application for Judicial Review of a decision of the Rent Board dated 1st December, 2017, in RB23/2013. The Application is made by way of Petition supported by three Affidavits, one sworn by the Petitioner, and the other two sworn. respectively by Ms Vanessa Gill the Petitioner's Counsel and Ms Kelly Louise an attorney and member of the same law firm of which Ms. Gill is a member.

- [2] In terms of the Petition, the Petitioner prays the Court to:
- i. Grant leave to the Petitioner to proceed with this matter
 - ii. Call up the record of proceedings in RB23/2013
 - iii. Grant an order of certiorari quashing the ruling of the Rent Board dated 1Dcember 2017 in RB23/2013.
- [3] The Court has, at this stage, to decide whether or not to grant leave to the Petitioner to proceed with the Application.
- [4] Mr. Shah, after initially indicating that he would be filing objections to the grant of leave, and after having been granted time to do so, has now stated that he no longer wishes to object to leave being granted but that if leave is granted he would be filing objections on the merits of the Application.
- [5] Rule 6 of the Supreme Court (Supervisory Jurisdiction over Subordinate Courts, Tribunals ad Adjudicating Authorities) Rules, 1995 provides that in order for the Court to grant the Petitioner leave to proceed, it must be satisfied that the Petitioner has sufficient interest in the subject matter of the Petition and that the Petition is made in good faith.
- [6] It cannot be denied that the Petitioner has sufficient interest in the subject matter of the Petition. I find that he has a direct and personal interest therein as he was the Respondent in RB 23/2013 and is directly affected by the decision sought to be reviewed.
- [7] Having determined that the Petitioner has sufficient interest, it remains for this Court to determine whether the Petition is made in good faith. In order to show good faith, the Petitioner has to show that he has an arguable case on the basis of the material available to the Court that is, the Petition, Affidavits and other documents submitted.
- [8] The material before the Court shows that RB23/2013 concerns an application brought by the Respondent in the present application against the Petitioner requiring the Petitioner to vacate the house he is renting from the Respondent so that repairs could be effected. It is averred in the Petition that the Rent Board having heard the testimony of the Respondent

and a witness in support of the Application, proceeded with the matter without hearing the case of the Petitioner. It is averred that on the date set for the Petitioner's case to be heard, his Counsel Ms. Gill was taken ill and she produced a sick note to the Magistrate's Court Registry and Ms. Kelly Louise appeared on her behalf before the Rent Board and sought an adjournment of the hearing. The Rent Board refused to allow an adjournment and proceeded, after giving Ms. Louise half an hour to apprise herself of the matter and continue with the hearing, to hear submissions from Counsel for the Respondent. The matter was adjourned for Ruling and on 1st December 2017, the Rent Board delivered a Ruling ordering the Petitioner to vacate the house in six months. It is averred by the Petitioner that the Rent Board proceeded in a manner that was in breach of Article 19 of the Constitution and the audi alterem partem rule.

[9] Having gone through the materials submitted in this Application, I find that the issues raised disclose an arguable case. I therefore find that the requirement of good faith is fulfilled and that the Petition is made in good faith.

[10] I therefore grant leave to the Petitioner to proceed with his Application for Judicial Review and I make the following Orders:

- (i) I direct the Registrar to serve on the Respondent a copy of the Petition, supporting Affidavits and connected documents.
- (ii) The Rent Board is directed to forward the record of proceedings in respect to RB23/2013 to the Registry of the Supreme Court not later than 23rd April, 2018.
- (iii) I direct the Registrar to, on receipt of the record of proceedings of the Rent Board in RB23/2013, allow the Parties to peruse it and obtain copies thereof.
- (iv) The Respondent is to file his objections to the Petition in the Registry of the Supreme Court on or before the 4th April, 2018, and serve a copy thereof on the Petitioner.

[11] The matter is fixed for hearing on the merits of the Application on 10th May at 10.00 a.m.

Signed, dated and delivered at Ile du Port on 10th April, 2018.



E. Carolus

Judge of the Supreme Court