

GRENADA

IN THE COURT OF APPEAL

Civil Appeal Nos. 24 & 25 of 1997

BETWEEN:

MATTHEW BEAUSOLEIL

Appellant

and

**(1) ENA BRISTOL (Administratrix
of Respondents of the Estate of Worrel Bristol, deceased)**

**(2) ENA BRISTOL (Administratrix of
the Estate of Virginia Hurst also known as Beatrice Bristol,
deceased)**

SEBASTIAN MITCHELL

Appellant

and

**(1) ENA BRISTOL (Administratrix of
the Estate of Worrel Bristol, deceased)**

Respondents

**(2) ENA BRISTOL (Administratrix of
the Estate of Virginia Hurst also known as Beatrice Bristol,
deceased)**

Before: The Hon. Mr. Justice Satrohan Singh
The Hon. Mr. Justice Albert Redhead
The Hon. Mr. Justice Albert Matthew

Justice of Appeal
Justice of Appeal
Justice of Appeal [Ag.]

Appearances: Dr. Francis Alexis for Appellants.
Mr. James Bristol for Respondents.

1998: July 15

JUDGMENT

SINGH, J.A.

We find that there is no justifiable reason to interfere with the judgment of the Trial Judge.

What the judge had before him was a default judgment with an application to set it aside. The law on this matter is clear. If you are asking to set aside a default judgment as was asked in this case, you must show either through your affidavit of merits, or by draft defence that you have a good defence. There was nothing in the so called affidavit of merits to indicate any defence to the claim brought by the respondents, and there was no

draft defence filed.

The appellant had filed a summons which asked for a stay before the judgement in default was entered, but that summons was filed after there was a letter written to the appellant consenting to an extension of time for them to file their defence.

The appellants chose not to follow that route. Instead they chose to bring different applications to the Court. The law is clear - an application for a stay is not a stay and it doesn't prevent a litigant from proceeding along the legal path that is allowed him.

For these reasons the appeals are dismissed with costs and the judgments of the Trial Judge are affirmed.

SATROHAN SINGH
Justice of Appeal

I Concur

ALBERT REDHEAD
Justice of Appeal

I Concur

A.N.J. MATTHEW
Justice of Appeal [Ag.]