

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO 774 OF 1997

BETWEEN

CLIVE ELIAS

Plaintiff/
Judgment
Creditor

And

IMA THEDORA ROBINSON

Defendant/
Judgment
Debtor

Appearances:

Miss Ewa Girard for Plaintiff/Judgment Creditor
Mrs Dawn Lay-Moyston for Defendant/Judgment Debtor

2000: January 14th

REASONS FOR JUDGMENT

[1] **d'Auvergne, J.:** By Judgment Summons filed on the 28th September, 1999 Judgment Creditor sought the Court's assistance in obtaining a \$10,000.00 debt from the Judgment Debtor.

[2] The said Summons was served on the Judgment debtor on the 2nd November 1999 to appear personally before the judge to be examined on oath or affirmation as to her means since judgment was taken against her and to inform the Court what manner she would be able to pay the amount

owed and also why she should not be committed to prison for her default of payment.

[3] The matter was set down for hearing on the 14th January 2000 at 9.00 a.m. having been adjourned from 26th day of November. At the hearing Learned Counsel for the Judgment Debtor applied for an adjournment in order to file summons to set aside the judgment and serve defence.

[4] The facts of this case are as follows:
On the 15th day of September 1997 the Plaintiff filed a writ of summons endorsed with a statement of claim, claiming \$10,000.00 interest and costs to the Defendant. The said writ was served on the Defendant on the 26th day of September 1997. Judgment in default of appearance was obtained on the 9th day of February 1999 and served on the Defendant on the 19th of April 1999. The next step was the Judgment Summons which as stated above was filed on the 28th September 1999 and served on the Defendant on the 2nd of November 1999 was set down on the Chamber list for hearing on the 26th day of November 1999. On that very day correspondence was received on behalf of Counsel for the Defendant to inform the judge that Counsel “is unable to attend today’s setting because of ill health. In the circumstances we should be grateful if the matter would be adjourned to a date after December 31, 1999.” The matter was duly adjourned to 14th January 2000.

[5] The verbal application for the adjournment to set aside the judgment obtained on the 9th of February 1999 and served on Defendant on 19th April 1999 was refused because in my considered opinion the delay is too long. The application to set aside the judgment and to exhibit a draft defence has not even been filed, almost one year after the judgment in default had been granted. The rules of the Supreme Court must be adhered to as closely as possible.

[6] The Judgment Debtor must appear personally before a Judge in Chambers for examination in accordance with the Judgment Summons which was adjourned to the 12th day of July 2000.

Suzie d' Auvergne
High Court Judge