

SAINT LUCIA

**IN THE HIGH COURT OF JUSTICE
(CIVIL)**

Suit No. 431 of 1999

IN THE MATTER of an application for leave to institute Civil Procedures against The Administrator-General for the succession of the Deceased, **LYDIA EDWARDS a.k.a LYDIA BERYL EDWARDS**, Barrister-at-law who died on the 7th December, 1980 at No. 7 Jeremie Street in the City of Castries in the State of Saint Lucia, W.I.

and

IN THE MATTER of article 603(2) of the Civil Code, and Article 1014 and 1066 of the Code of Civil Procedure, Chapter 242 and 243 respectively of the revised law of Saint Lucia, 1957

and

IN THE MATTER of section 1 to 5 of Chapter 21 of The Trust Corporation (Probate and Administration) Ordinance of 1954

Between:

**THE FIRM OF SAVITAR ENTERPRISING NO. 20/1980,
REGISTERED UNDER THE PROVISIONS OF SECTION 5 (1)
OF CHAPTER 247 OF THE REGISTRATION OF BUSINESS
NAMES ORDINANCE OF 1956.**

Plaintiff/Applicant

and

THE ADMINISTRATOR-GENERAL

Defendant/Respondent

Appearances:

Mr. Kenneth Monplaisir Q.C

Attorney for the succession of Lydia Beryl Edwards

Mr. Anthony Estwick in person and unrepresented

2000: November 8th
2001 March 8th

JUDGMENT

- [1] **d’Auvergne, J:** By summons filed on the 21st day of June 2000 supported by an affidavit of even date, the Applicant sought an order revoking the Letters of Administration of the succession of the deceased Lydia Beryl Edwards and that the Applicant be granted leave to apply for the fresh Letters of Administration for the said succession.
- [2] The gist of the supporting affidavit is that the Applicant has a beneficial interest in the succession of Lydia Beryl Edwards who was a business partner of the Applicant.
- [3] The Applicant further deposed in a Supplementary Affidavit filed on 8th October 2000 that the documents appointing the Applicant to execute the will of the deceased and to transfer various shares from the said succession to the Applicant were in the possession of the deceased at her death and to date have not been disposed of in accordance with the laws of St. Lucia.
- [4] The Applicant deposed that the firm of Monplaisir and Company Solicitors for Olive Edwards Valmont the duly appointed attorney for Ephraim Zeno Edwards to whom the Letter of Administration for the said succession of Lydia Beryl

Edwards was granted, has in its possession and custody the instruments that were in custody of Lydia Beryl Edwards at time of her death.

[5] At the hearing the unrepresented, Mr. Anthony Estwick re-iterated the contents of the aforementioned affidavits.

[6] Mr Kenneth Monplaisir Q.C who represented Ephraim Zeno Edwards to whom Letter of Administration for the said succession of Lydia Beryl Edwards acted as *amicus curiae* to the Court. He however informed the Court that he was served with the Summons and affidavits though not cited as a party.

[7] Learned Counsel urged the Court not to entertain the Applicant's application since the Applicant was not a company but was only registered under the Business name ordinance and that there was on file an order of the Court dated 14th of June 2000, which ordered the Applicant to remove the Administrator General from the proceedings; that this being so, the Applicant was then the only party before the Court and that this was not an *ex-parte* application. He further stated that there has never been any Court order which ordered that the documents of the deceased Notary Lydia Beryl Edwards be delivered into the custody and control of another lawyer.

[8] Mr. Estwick replied that "the Applicant is a body corporate."

[9] **Conclusion**

In order to appreciate this strange pleadings of this lay man I think that I should give a brief history of the case.

[10] On the 29th day of April 1980 Savitar Enterprising was registered as a business name and the registered application reads as follows:

I hereby certify that a Statement of Particulars furnished by (1) Anthony Estwick of Marc quarter of Castries St. Lucia and (2) Lydia Edwards of 7 Jeremie Street, Castries, St. Lucia and pursuant to Section 5 of the above ordinance was registered on the 23rd April 1980.

Date this 29th day of April 1980.

[11] On the 27th November 1996 **d’Auvergne, J.** ordered the following:

“That the Applicant Anthony Estwick be not allowed to make any further applications in this action without the leave of the Court first had and obtained, and that if notice of such application should be given without such leave, the Respondents should not be required to appear unless the judge on the return thereof shall so direct, the application shall be dismissed without being heard.”

[12] On the 14th June 2000 **Hariprashad-Charles, J.** ordered that “the Administrator General cease to be a party in this action and that his name be struck out of the *exparte* originating Summons and that all subsequent proceedings be set aside for irregularity.”

The reasons for granting the above order was noted by the Learned Judge in her order.

[13] Lydia Beryl Edwards reportedly died on the 7th December 1980 and on the 2nd of May 1984 Letters of Administration was granted to Ephraim Zeno Edward through his attorney Olive Edwards Valmont.

[14] The only logical conclusion from the above, is that the Applicant must seek leave from the Court before filing any further applications and this has not been done. Secondly the Applicant was ordered on the 14th of June 2000 to remove the name of the Administrator General from any of its future applications yet on the 21st of June, 2000, a mere seven days later, in disobedience of the two orders files this Summons and supporting affidavit, and compounds its disobedience by filing a supplementary affidavit dated the 8th of October 2000.

[15] It is not without significance that the Applicant abandoned his original file in which **d'Auvergne, J** gave the order that he must first seek leave of the Court before filing any application but instead commenced fresh proceedings by notice on the 21st of June 1999 whereupon a new file was opened.

[16] While it is true that the law courts are open to all, litigants should not be allowed to flaunt the rules, regulations and orders of the Court, and moreover there must be an end to litigation.

[17] My order is therefore as follows:

This application is dismissed.

There will be no order as to costs.

It is my considered opinion that the Attorney General of St. Lucia should take steps to declare Mr. Anthony Estwick a vexatious litigant.

.....
Suzie d’Auvergne
High Court Judge

At the hearing the clerk of Court Mr. Gilbert Germaine swore to his having visited the home of Mr. Vera Jn Jacques, Block Y, Apt 6, High Street Castries (stated place for service) on the 7th March 2001. She was absent. Information received she was very ill at Choiseul. On his return to the Court house he met Mrs. Marilyn King of Ciceron, the next door neighbour of Mr. Anthony Estwick who promised sincerely to inform Mr. Estwick of the delivery of the decision in **Suit 431 of 1999** in Chambers at 9:15 a.m. on 8th March 2001. He also said that he had made diligent inquiries and searches around the Courts for the appearance of Mr. Estwick but alas! in vain.

This judgment will be delivered to the home of Mr. Estwick's at Ciceron.

**Suzie d'Auvergne
High Court Judge.**