

ST. VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO. SVGHCV0103 / 2003

BETWEEN:

MATILDA ANTOINE

Claimant

and

**CLAUDE THEOBALDS
KEN JOSEPH**

Defendants

Appearances:

Mr. Joseph Delves for applicant/defendant
Miss Nicole Sylvester for respondent/claimant

2003:May 2, June 6.

JUDGMENT

IN CHAMBERS

ALLEYNE J.

[1] The applicant, the first named defendant, has applied for an injunction against the respondent, to restrain her from entering upon or remaining upon or building or continuing to build upon the disputed land. The respondent has not filed an affidavit in reply, citing as the ground for not doing so that the affidavits in support of the application fail to state on whose behalf they are filed, and also fail to state that the deponents are duly authorised to swear the affidavits. Learned counsel for the respondent admits that she has been unable to find any authority “exactly on point”, but says that she relies on the general principle of law which states that if a deponent is, or is employed by, a party, that must be stated in the affidavit.

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- [2] Learned counsel bases her submission on the proposition that failing to do as suggested may lead to the deponent being designated an intermeddler or not having sufficient *locus standi*. I do not accept that proposition.
- [3] More to the point are the provisions of Part 30.2(d) of the **Civil Procedure Rules 2000** (CPR). This rule provides that every affidavit must be marked on the top right hand corner of the affidavit and of the backsheet with the name of the party on whose behalf it is filed, the initials and surname of the deponent, where appropriate the number of the affidavit in relation to the deponent, the identification reference to each exhibit referred to, the date when sworn and the date when filed. An example is given in the rule for guidance.
- [4] In the instant case there has been partial, although not full compliance with the rule. The rule itself makes no provision in the event of non-compliance. In my view, it is for the court to decide what if any sanctions should be applied in the circumstances. The court has wide powers under Rule 26.7, 26.8 and 26.9 to deal with issues of non-compliance. Rule 26.9 is particularly applicable in this case.
- [5] In the circumstances of this case it is ordered that the applicant rectify the affidavits filed in support of her application within 7 days, that is to say on or before June 13th, 2003, and that the respondent be at liberty to file and serve affidavits in response to the applicant's corrected affidavits within 7 days of service thereof. The application is fixed for hearing on the 27th June 2003.
- [6] There will be no order as to costs.

Brian G.K. Alleyne
High Court Judge

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