

IN THE HIGH COURT OF JUSTICE
SAINT VINCENT AND THE GRENADINES

NO: 122/1993

BETWEEN:

STEPHANIE LOURINE JOCELYN

PETITIONER

V

MATTHEW JOCELYN

RESPONDENT

Appearances :

Ms. P. David for Petitioner

Mr. Pamel Campbell QC for Respondent

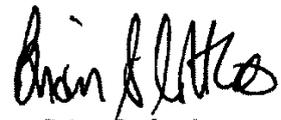
2nd December 2004

RULING

- [1] The Petitioner filed a petition for divorce on 23rd March, 2003. The decree dissolving the union was made absolute on 31st December, 1993. The Petitioner applied for ancillary relief. The application was heard ex parte. Cenac J. granted a court order transferring the Respondent's one half interest in the matrimonial home to the Petitioner. The Registrar of the High Court was authorised to effect the transfer. The transfer was effected on 9th May 1995.
- [2] Six years later the respondent applied to have the ex parte order set aside. I asked Counsel for submissions as to the jurisdiction of the Master to hear the application.
- [3] Mr. Campbell for the Respondent says that Rule 3(1) of the Matrimonial Causes Rules 1977 (UK) applies. That rule reads
- "the U.K Rules of the Supreme Court 1965 shall apply with the necessary modifications, to the commencement of matrimonial proceedings in, and

to the practice and procedure in matrimonial proceedings pending in, a divorce county court and the High Court respectively”.

- [4] Ms. David says that that rule applies only to the commencement of proceedings. She argues that the CPR 2000 specifically does not apply to family proceedings. Rule 3(1) of the MCR 1977 is specifically “subject to ... any enactment”. CPR 2000 is an enactment.
- [5] The logical result of Ms. David’s submission is that there exists no legal remedy to the Respondent. His application cannot be heard under CPR 2000. The MCR 1977 make no provisions for applications to set aside.
- [6] I cannot accept that result. This court must retain jurisdiction to consider applications of the instant kind. Here the Respondent says that an order was made in his absence depriving him of his property rights. There must be in the High Court of Justice of St. Vincent and the Grenadines an inherent jurisdiction to consider an application for relief by the Respondent.
- [6] Despite the assistance of Counsel I am not able point to a set of rules which prescribe a procedure for dealing with applications such as the present one. Yet as I have intimated above I consider that this court retains an inherent jurisdiction to permit the Respondent to be heard. I make no finding as to the likelihood or otherwise of success of the Respondent’s application but the application must be considered by the Court. I rule accordingly.


Brian S. Cottle
MASTER