

**THE EASTERN CARIBBEAN SUPREME COURT**

**THE HIGH COURT OF JUSTICE**

**HIGH COURT CIVIL CLAIM NO. 177 OF 1991**



**BETWEEN:**

**MARCELLA DEANE**

**CLAIMANT**

**v**

**NORRIS DEANE**

**DEFENDANT**

**Appearances:**

Mr. S. E. Commissiong for the Petitioner

Ms. N. Sylvester for the Respondent

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2006: May 19

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**DECISION**

- [1] The proceedings for the dissolution of this marriage and the connected ancillary matters have lasted 15 years. The petition was presented on 9<sup>th</sup> April 1991. The decree dissolving the union was made absolute on 22<sup>nd</sup> November 1995.
- [2] During the proceedings for ancillary relief the petitioner alleged that she had settled certain debts on a drug account which was in overdraft to the tune of \$64,797.78. This overdraft facility the petitioner says was used solely by the respondent for his separate business. She had to settle this debt as it was secured by a lien on her property. She wishes to have this sum repaid to her.
- [3] The issue of this drug account overdraft was before Cenac J. when he dealt with the ancillary relief proceedings at first instance. The Learned Judge detailed the evidence of both parties concerning this account. The respondent appealed the decision of Cenac J. The Court of Appeal gave a decision. No issue was taken

before the Court of Appeal that there was a failure of Cenac J. to deal with the drug account overdraft. The Court of Appeal dealt with the ownership of the Middle Street Property. The outstanding mortgage debt was to be paid equally by both parties. Obviously, in arriving at this position the Learned Judges would have had the decision of Cenac J. at first instance in mind. He had considered the drug account and all other relevant matters in arriving at his decision.

- [4] This question was raised when this matter first came before me. I repeat what I said then. I consider that this matter is at an end. All the matters which were in dispute between the parties were raised before Cenac J. The decision of the Court of Appeal was intended to finally dispose of this matter. Litigation must come to an end.
- [5] I do not consider it right to attempt to re-litigate in piecemeal fashion this ancillary relief matter. Any issues which the parties considered that they wished the Court to adjudicate upon ought to have been raised before the Court of Appeal. It is not open to this Court to presume to supply any perceived omissions of the Court of Appeal.
- [6] This application by the petitioner is dismissed. The petitioner is to pay the costs of this application. I assess those costs at \$1,400.00 as I view this application as a procedural application. While the Civil Procedure Rules 2000 do not apply to these proceedings, I used Civil Procedure Rule 65.11(7) for guidance in assessing the costs.

  
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Brian Cottle  
MASTER