

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

CLAIM NO SLUHCV 2011/0732

BETWEEN:

ROBERT LEOTARD OF REEL IRIE LTD

Claimant/Respondent

and

SAINT LUCIA AIR & SEA PORTS AUTHORITY

Defendant/Applicant

Appearances:

Mr. Collin Foster and Mr. Vandyke Jude for the Claimant/ Respondent
Mr. Mark Maragh for the Defendant/Applicant.

2011: 01st December

2011: 08th December

JUDGMENT

- [1] **BELLE J:** The Applicant, Saint Lucia Air and Sea Ports Authority ("SLASPA") filed an application to strike out the Claimant's claim on the basis that it is a nullity. The Claimant says that this is a frivolous and vexatious attack on a legitimate claim.
- [2] The crux of the matter is to determine whether the Claimant failed to give the required Notice pursuant to Section 90 of the SLASPA Act Cap. 8.13 of the Laws of Saint Lucia. The Claimant gave notice to the former Defendant in the form of a Notice pursuant to the Civil Procedure Code to the General Manager of SLASPA and three other persons. There is no doubt that the persons at SLASPA who need to have knowledge of the Claim do have such knowledge.
- [3] The Claimant first claim was against the General Manager Sean Matthew. The Defendant Sean Matthew never filed a defence. He apparently took the view that no

action could be brought against him personally for his actions as General Manager of SLASPA or for the actions of other officers of the authority. He did nothing.

- [4] After the Claimant amended his claim, the new Defendant, in the Amended Claim The Saint Lucia Air and Sea Ports Authority attacked the Claim on the ground that SLASPA had not been given notice of the intention to file a Claim.
- [5] This is a Claim for Judicial Review for which leave was granted to the Claimant to apply for Judicial Review pursuant to Part 56.4 of the CPR 2000 and the decision or action of Sean Matthew. No leave was sought and none was granted to apply for Judicial Review against SLASPA. On that ground alone the Claim would have to be struck out since this is a Claim which could only proceed with leave pursuant to Part 56.3 of the CPR 2000. So quite apart from the failure to proceed without the Section 90 notice, the Claimant has also failed to obtain leave to apply for Judicial Review of a decision or action of SLASPA.
- [6] In my view the failure to obtain leave to proceed against SLASPA and the failure to give notice to the Authority are related species. Both afford the opportunity to resolve the dispute by alternative means of redress whether provided for in a governing statute or otherwise. It is of importance for administrative authorities that they be given an opportunity to address the matters through the administrative process if possible.
- [7] Since the occasion of the change of Defendant meant that the Claimant had not given notice to the specific Defendant in a manner which would make it possible for them to respond and since they also failed to seek leave to proceed against the Defendant the Claim cannot be permitted to proceed as a matter of policy.
- [8] In reality there is no doubt that both Sean Matthew and the Defendant SLASPA are aware of the case being brought before the Court, unfortunately the Court is prohibited from hearing it in its present form. The reasons are that no leave has been sought and the Court was unable to clarify whether any other form of redress against the new

Defendant would be possible. Secondly, no notice has been given to the Defendant in a form which forces them to answer the claim. Again such a notice would afford the Defendant an opportunity to resolve the matter without a trial.

[9] The Claim would therefore have to be declared a nullity, be stayed or struck out.

[10] The Court therefore orders that the Claim Form in this matter be Struck Out because no leave was sought for it to proceed to Judicial Review in its present form and no statutory notice was given to the Defendant.

[11] I award cost to the Defendant pursuant to Part 65 of the CPR 2000.


Francis H V Belle
High Court Judge