

THE REPUBLIC OF TRINIDAD AND TOBAGO:

IN THE HIGH COURT OF JUSTICE

CV2010-03647

Between

JASON KOOMALSINGH

Claimant

And

MILLENIUUM METALS LIMITED

Defendant

Before the Honourable Mr Justice Ronnie Boodoosingh

Appearances:

Mr Alvin Pariagsingh for the Claimant / Judgment Creditor

Mr Vivek Lakhan-Joseph and Mr Shawn Mahase for the Defendant / Judgment

Debtor

Date: 7 September 2020

REASONS

1. The defendant filed an application to vary the terms of a judgment under Part 48. It referred to suspending the operation of a Writ of Execution and varying the terms of the judgment order. This was determined, without the claimant being represented or it appears, properly served. Part 48 provides specifically for service. The court therefore could not embark on the hearing of the application in such circumstances. The Order of 19 February 2020 without the claimant being present and represented is therefore recalled.
2. The claimant has taken the position that the Writ of 10 December 2018 was spent. The defendant says the critical issue was the date of issue which was March 2019. The claimant, having adopted the position he

has, it is not necessary for that aspect of the application to be heard further.

3. Part 48 allows a party to apply to the court for the the variation of the terms of judgment for payment of a specified sum of money as to the time and method of payment. The Part sets out the process to be followed.

4. The original judgment was as follows:

“IT IS THEREFORE ORDERED that you must pay the Claimant the sum of Five Hundred and Two Thousand, Five Hundred and Seventy dollars (\$502,570.00) for debt, interest and costs to the date of this judgment, **together with interest at the statutory rate of twelve percent (12%) per annum after the date of entry of this judgment to the 22nd September 2016 and thereafter at the rate of five percent 5% per annum from the 23rd September 2016 to the date of payment.**”

5. The judgment order did not make any provision as to the time and method of payment. It provided for different rates of statutory interest. Thus there was no issue of time and method of payment to vary. Thus the court has no jurisdiction, under Part 48 to entertain the other reliefs sought by that application. In consequence there is no need to proceed further with this matter. I am also not satisfied that this is a matter which the court ought to consider under the inherent jurisdiction. The parties are free to negotiate other terms on their own and I will encourage that.

6. The claimant filed an application on 20 July 2020 seeking certain reliefs. He may have asked for the court to re-consider the defendant's application since the claimant was not present, represented or apparently served. Nonetheless the court considered both applications in the round and I have made the following orders.

7. The court's order is as follows:

ORDER

- a. The order of 19 February 2020 is recalled.
- b. The defendant's application is dismissed.
- c. The defendant must pay the costs of its application filed 18 February 2020 and the claimant's 20 July 2020 application together assessed in the sum of \$4,000.00.

8. I am grateful for the submissions of the parties.

Ronnie Boodoosingh (E-signed)

Ronnie Boodoosingh

Judge