

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Port of Spain Court

Claim No. CV2020-02825

BETWEEN

SAVITA RAGHOO

MARLENE BOLLER

WENDELL BISSESSAR

ALINCIA COLLINS-TOBY

VIRGILLY NURSE

CLAYRINE EUGNE

RICHARD OLLIVIERRE

CANDICE HOLDER

CRYSTAL SCOTT

Claimants

AND

ALL ROUND TRADING COMPANY

ALLISON MAGALHAES

Defendants

Before the Honourable Madam Justice Eleanor J Donaldson-Honeywell

Delivered on: 7 March 2022

Appearances:

Mr. Arden Williams, Attorney-at-Law for the Claimants

Mr. Shurland Augustine instructed by Ms. Jehan-Che Perreira, Attorneys-at-Law for the Defendants

REASONS

A. Introduction

1. I hereby provide reasons for an Order made on 7 March 2022 determining an application by the Applicant/Judgment Creditor for committal of the Second Respondent (Interested Party) under **Part 53.10(c)** of the **Civil Proceedings Rules, 1998** (as amended) for failure to comply with the Court Order dated 22 January 2021.

B. The Proceedings

2. The Applicants filed the Notice of Application on 12 September 2021 and served same on 28 February 2022. Counsel for the Claimants contended during the hearing that the Respondents were served with Notice of the Application since November 2021, though without a hearing date being fixed. Counsel for the Respondents did not deny this.
3. Mr. Arden Williams appeared for the Applicants, along with representatives of the Claimants, Savita Raghoo and Crystal Scott. Shurland Augustine and Jehan-Che Perreira appeared for the Respondents. Mr Bux, representative of the First Respondent, was stated to be out the jurisdiction and therefore, absent. The Second Respondent had a pre-scheduled medical appointment and was also absent. The Court made note of the requirement for parties to be in attendance at proceedings, particularly in committal proceedings. The Second Respondent was confirmed by Counsel to be a director of the First Respondent.
4. Counsel for the Respondents made submissions on the pleadings in the substantive matter. It was submitted that judgment was against the company, All Round Trading, and that before a director is found liable, the veil of corporation must be pierced.
5. With regard to the present proceedings, not concerning liability but rather enforcement of the Judgment, the Court directed Counsel to the **CPR Rules**, which provide that the director can be committed on behalf of the company.

6. The Companies Act was cited generally by Counsel for the Respondents as providing that protection from committal to directors from the acts of the company. No specific sections was proffered aside from a reference to **Section 4**. **Section 4** is the interpretation section of the Act, which defines numerous terms within the Act.
7. The Court made reference to **Section 4 of the Winding Up Rules** within the Companies Act, which provides for committal proceedings to be held in open court (which was satisfied in the present proceedings).
8. Counsel further submitted that, under **Section 53.10 CPR**, the Court has the power to adjourn the hearing. Counsel mentioned that, since being served with the application, efforts were being made to raise the funds for payment to the Judgment Creditor. However, no explanation was given for the failure to respond to the application in that time.

C. Conclusion

9. Considering the failure of the Respondents to respond to the application or to take any other step since service of the application; their non-appearance to give reasons for their failure to comply; and the lack of any basis in law to defend the application, the Court exercised its jurisdiction under **CPR 53.10 (c)** to make a suspended committal order against the Second Respondent as an officer of the First Respondent company.

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Eleanor Joye Donaldson-Honeywell

Judge