

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**Claim No.: CV2015-01342**

**IN THE MATTER OF AN ACTION UNDER  
THE PARTITION ORDINANCE CHAPTER 27 NO. 14**

**Between**

**ROMA POORAN**

**Claimant**

**And**

**SANJAY POORAN**

**(Administrator Ad Litem of the Estate of Vijaya Roopchand-Pooran, otherwise Vijaya Pooran otherwise Pijaya Roopchand-Pooran pursuant to Court Order of the Honourable Madame Justice Kangaloo dated 6<sup>th</sup> February, 2015)**

**Defendant**

**Before the Honourable Mr. Justice Vasheist Kokaram**

**Date of Delivery: 16<sup>th</sup> July 2015**

**Appearances:**

**Mr. Shaheed Hosein for the Claimant**

**Ms. Griffith instructed by Ms. Marielle Cooper-Leach for the Defendant**

**JUDGMENT**

1. In my view the claim was premature and ought not to have been filed until the contentious probate proceedings in Claim No. CV2012-01600 which touches and concerns the subject matter of these proceedings was finally determined.
2. The power exercised by the Court was a case management power to strike out a claim made pursuant to rule 26.2 CPR and to further the overriding objective by applying the principles of equality, economy and proportionality espoused in Part 1 CPR:

- (a) The Court as a matter of principle would not encourage satellite litigation. That will not be a proportional approach to the determination of the main issues, nor maintain the parties on an equal footing, nor an economical use of the parties resources. CPR 1.1.
- (b) The claim in these proceedings is for partition or sale in lieu of partition of the subject property described in paragraph 1 of the Statement of Case. However the ownership of the shares in this property is in dispute and is subject to determination in CV2012-01600 which is “at an advanced stage”. See paragraph 11 and 12 of the Statement of Case.
- (c) In that case the interest of the deceased in the one half share of the property is in question. Has her share in that one half share been bequeathed to those mentioned in her Will as pleaded in paragraph 5 of the Statement of Case or not? A resolution of the contentious probate proceedings would therefore resolve the issue as to who would be entitled to that share in the half share of the subject property in the event of a partition or sale of the subject property. The uncertainty is demonstrated in the exhibit G annexed to the statement of case and the letter in response exhibit H.
- (d) Importantly in the attorney’s letter exhibit I there are attempts to arrive at a settlement of CV2012-01600 “to return peace and tranquility to the family”.
- (e) Only when that issue is finally resolved either by a litigated outcome or by settlement can any issue of partition or sale arise. Clearly in the latter instance the issue of partition or sale may not arise altogether.
- (f) It will be wrong to even stay these proceedings as the entire basis of the claim is based on an uncertainty. The pre action stages of litigation must always be approached with a clear objective. After the conclusion of the contested proceedings in whatever fashion if any matter has to be litigated the attorneys must first re-engage the pre action process to properly bring the issues to the attention of the parties.

(g) The proceedings as they stand therefore is premature and amounts to an abuse of process. It cannot sensibly be managed consistently within the philosophy of the overriding objective or of effective case management.

**Vasheist Kokaram**  
**Judge**