

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV No. 2014-00674

Between

KULRAJ KAMTA

Appellant/Claimant

And

ZAHIDA KHANPRADIE

Respondent/Defendant

REASONS

Before the Honourable Mr. Justice Frank Seepersad

Ex-parte Application determined in Chambers

Date of Delivery: 19th March, 2014

1. Before the Court was the Appellant/Claimant's application to deem the purported service on the Respondent/Defendant as satisfactorily proven service pursuant to Part 5.10(3) of the Civil Proceedings Rules (1998) as amended (CPR). The application was filed though the court office was not asked to take any step on the basis that the Claim Form and Statement of Case had been served pursuant to Part 5.10(2) of the CPR. The application therefore appeared to the Court to be unusual and premature.
2. The affidavit filed in support of the application revealed that pursuant to Part 5.10(1) of the CPR, the Appellant/Claimant attempted to effect service on the Respondent/Defendant by sending the Court issued documents by Registered Mail to an address that the Appellant/claimant contended was the Respondent/Defendant's address. The basis for holding that the Respondent/Defendant's address was Cassie Extension El Dorado on or about the 1^{2th} March, 2014 was not explained. The said documents were returned to the Appellant/Claimant as being undelivered and there was a note that no one signed for same.
3. In the circumstances, the Court was not satisfied that there was proper service on the Respondent/Defendant. The Court formed the view that the application was ill-conceived. It could not be said that the Respondent/Defendant was able to ascertain the contents of the documents that were posted nor was it likely that she would have been able to so do. The said application contained no information as to whether or not there were any challenges that prevented personal service of the documents and accordingly the Court felt that attempts had to be made to effect personal service upon the Respondent/Defendant.
4. The Court considered Part 5.10(4) of the CPR but there was insufficient information before the Court to fix a date, time, and place to consider making an order under Part 5.12 of the

CPR and the Court also noted that the validity of the Claim Form and Statement of Case had expired.

5. Accordingly the Court dismissed the Claimant's application with no order as to costs.

.....
FRANK SEEPERSAD
JUDGE