

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CLAIM NO. CV 2017-00668

BETWEEN

SUPERPHARM LIMITED

Claimant

AND

DARREN DOOKIE

Defendant

Before the Honourable Mr Justice Frank Seepersad

Appearances

1. Mr Merry for the Claimant.
2. Ms Watkins-Montserin for the Defendant.

Date of Delivery: 12th December, 2017

Decision

1. Before the Court for its determination was the Defendant's notice of application dated 15th September 2017 by virtue of which the Defendant sought to strike out paragraphs 32 to 39 of the Claimant's amended statement of case.
2. The Court considered Part 26.2 of the Civil Proceedings Rules 1998 (as amended and referred to as the "CPR") as well as Part 8.6 of the CPR and formed the view that it did have an inherent jurisdiction to strike out a claim or any part thereof and that its jurisdiction was not circumscribed by Part 36.2 of the CPR.
3. The Court has an obligation and responsibility to manage matters with due regard to the overriding objectives of the CPR and must always ensure that the pleadings are relevant to the issues which fall to be determined and that the probative value of information contained in the pleadings must always outweigh any prejudicial effect.
4. The Court also formed the view that an application to strike out could be made as soon as it becomes apparent that the pleading or part thereof is offensive and the Court felt that the Defendant acted with alacrity.
5. The Court considered the nature the cause of action before it and formed the view that the matters outlined at paragraphs 32 to 39 of the amended statement of case bore no probative connectivity with the issues to be resolved.
6. The Court, cognisant of its responsibility to ensure that its processes and procedures are not utilized so as to occasion manifest unfairness to any party, felt that the matters in the said paragraphs were wholly extraneous and irrelevant and that the prejudicial effect of same far outweighed any probative value and amounted to an abuse of the Court's process. The information was unrelated to the specific allegations before the Court and the retention

of same would have caused unnecessary expense as the Defendant would be required to address extraneous matters. Applying the test of relevance as well as the potential probative value of the matters pleaded, the Court felt that any fraud alleged as against any of the Defendant's prior employers would not provide assistance to the Court in this case. The Court also noted that it is entirely possible to disregard aspects of a witness's evidence but accept other parts and so caution has to be exercised when considering propensity as the prejudicial effect of evidence led in support thereof can easily outweigh the probative value.

7. The Court noted that the Claimant's case was that money was stolen by deceit and misrepresentation and the matters referred to in the offending paragraphs were not similar in nature to the specific allegations before this Court.
8. Ultimately the Court found that the matters in the offending paragraphs were not necessary as the information contained therein was not relevant to the issues for the Court's determination. In the circumstances, paragraphs 32 to 39 of the amended statement of case were struck out and by consent, costs were agreed in the sum of \$7,400.00.

FRANK SEEPERSAD
JUDGE