

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

CLAIM NO: GDAHCV2022/0212

BETWEEN

MARTIN EDWARDS

Claimant

and

SUPERVISOR OF ELECTIONS

Defendant

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Claimant in person

Karen Reid, Solicitor General for the Defendant

2022: June 21

RULING

[1] **ACTIE J:** The claimant, who is the leader of the Grenada Renaissance Party (hereafter “GRP”), and a litigant in person filed a claim on 7th June 2022 in the following form:

Statement of the Claim:

- (1) Legal fee- \$1000.00;
- (2) Stamp - \$50.00;
- (3) Statement of the problem - \$50.00;
- (4) Injunction - \$40.00;
- (5) Fine for the Government - \$50,000.00.

- [2] Attached to the “Statement of the Claim” is a “Statement of the Problem” in which the claimant outlines what the court understands to be his grievances.
- [3] The claimant also filed a document entitled “Injunction” seeking the following:
- (1) It is so ordered that nomination was improper consequently, it must be abolished;
 - (2) The personnel of the parliamentary office who oversee the nomination should be suspended;
 - (3) The registration day must be extended to at least one week;
 - (4) The election must be extended to at least once month;
 - (5) The day of nomination should be from 8:00am to 4:00pm and not 8:00am to 12:00pm.

Claimant's case

- [4] The claimant in essence complains of bias in the processing of his nomination papers, which he states led to the rejection of the nomination document for his candidacy for the constituency of St. Andrew North East.
- [5] The claimant states that his application was only eighteen minutes late, and that said lateness would not have occurred had the personnel at the parliamentary election constituency office not delayed his application.
- [6] The claimant further avers that the GRP candidate for the constituency of East St. Patrick was also unable to submit his application for nomination as he was twelve minutes late, likewise due to initial delay caused by the parliamentary election constituency office in St. Andrew North East.
- [7] The claimant also asserts that the GRP candidate for St. David was removed from the voters list.
- [8] As a result of the foregoing, the claimant claims that the register is unconstitutional, and states that the non-inclusion of the candidacy of the leader

of the GRP was predetermined due to the mischief of the parliamentary electoral office.

- [9] The claimant asks that the personnel of the parliamentary electoral office be suspended, that the date for registration of candidates for election be extended to a week, and that the date for elections be extended for one month. The claimant further asks that the time for nomination be 8:00am to 4:00pm as opposed to 8:00am to 12:00pm.

Defendant's case

- [10] In response to the documents filed by the claimant, the defendant filed affidavits in the names of Evan George Matthew Bhola, Vincent Morain and Barbara Charles.

- [11] The defendant asserts that it acted properly, within the constraints of **Section 39(3) of the Representation of the People Act Cap 286A** (hereafter "the Act") in its treatment of the claimant, which Section states that:

"The returning officer shall at the place aforesaid and at the time aforesaid and within three hours thereafter receive such nomination papers as may be tendered to him or her."

- [12] Before delving into the main issue, it is necessary to highlight the administrative inefficiency in the handling of the claim. The claimant filed his complaint on 7th June 2022. He was assisted by a court clerk who uploaded the matter on the E-Litigation Portal. An acknowledgement of service was filed by the Solicitor General on 13th June 2022. Despite this, the court office only yesterday, 20th June 2022 at or around 3:00pm, seven days after the filing of the acknowledgement of service, and thirteen days after the filing of the claim, assigned a judicial officer, this court, to consider this matter. The applicant raises issues in relation to the impending elections for the State of Grenada which is scheduled for Thursday 23rd June 2022.

[13] The tardiness of the court office in bringing the matter to the attention of a judge in the late afternoon of 20th June 2022, some 3 days short of the elections and having regard to the issues, is totally unacceptable; inadequate and is not adhering with the court's mission. The court has consistently implored the need to efficiently bring Injunctions, Judicial Review, and Constitution motion matters to the attention of the Court Administrator, Registrar or Judges immediately, as they are filed.

[14] I wish to adopt the pronouncement made by Ventose J in **Tanzania Tobing Tanzil v Lindsay F.P Grant et al**¹ that:

“The administration of justice requires hard work and efficiency from all persons who form part of the civil justice system... namely High Court Judges, Masters, Registrars, Attorneys-at-law, court office staff, police officers and others. In order to achieve the efficient administration and application of the CPR 2000, each player must play his or her part with competence, integrity, professionalism and efficiency... It also requires the Registrar of the High Court, representing the court office, expeditiously and efficiently to carry out his or her functions, among other things, pursuant to any Rule in the CPR 2000 or in any court order.

“The court office is the engine room of the administration of justice in all the States and Territories served by the Eastern Caribbean Supreme Court... If they fail properly to carry out their functions, then, the entire system is bound to find itself in a gridlock. The court, through the use of its case management powers, can properly manage matters coming before it. The court does not, however, have any similar direct control over the court office that is managed by the Registrar of the High Court.”

Law and Analysis

[15] In relation to the application, what was filed by the claimant were documents resembling what is an application for an injunction and a statement of claim, such documents not sufficient to invoke the court's determination of his stated challenges.

¹ Claim No. SKBHCV2017/0391

[16] It is the position of counsel for the defendant that the form of the claimant's documents before the court is irregular and thus fatal to his claim. Further, as counsel for the defendant correctly indicates, there is no evidence properly before the court, thus no proof of the claimant's aspersions. Counsel for the defendant cites the authority of **Beach Properties Barbuda Ltd and Others v Laurus Master Fund Ltd and another**² wherein it is stated, with reference to the form in which injunction applications ought to adopt:

“The application for the injunction followed the unfortunate practice of failing to state the grounds of the application. The prescribed form for making applications expressly requires the grounds to be stated in the form by providing a section beginning...”

The court went on to indicate that non-recognition of said form of applications for injunctions:

“... is a completely unacceptable practice. It is an abuse of the process of the court that should attract condign consequences.”

[17] The **Constitution of Grenada** through **Section 37** gives the High Court the jurisdiction to hear and determine any question whether:

- (1) Any person has been validly appointed as a Senator;
- (2) Any person has been validly elected as a member of the House of Representatives;
- (3) Any person who has been elected as Speaker of the House of Representatives from among persons who were not members thereof was qualified to be so elected or has vacated the office of Speaker;
- (4) Any senator or member of the House of Representatives has vacated his seat or is required under the provisions of Section 27(3) or 33(3) of this constitution, to cease to perform any of his functions as a Senator or member of the House of Representatives.

[18] The wording of the abovementioned section are in terms which require an election to have first taken place, or election results to have been available to be challenged. However, the Court of Appeal in **Loftus Durand & Ors v President of the Commonwealth of Dominica, Charles A. Savarin & Ors**³ dealt, inter-

² [2007] ECSCJ No. 171

³ DOMHCVAP2019/0006

alia, with objection to register of electors, procedure for nominations for an election and injunctions to halt the holding of elections. Chief Justice Dame Pereira therein stated that the court's election jurisdiction allows it to determine matters once said jurisdiction is properly engaged. It was stated by Pereira CJ at paragraph 33 of her judgment:

"On the first question, the Court observes that the High Court's jurisdiction under section 40(1)(a) is not irrelevant, as the appellants suggested, merely because the section is phrased in terms which require an election to have first taken place, or that the election results are not available to be challenged. To accept this view is to accept that the High Court's exclusive jurisdiction and the procedure for invoking that jurisdiction can be leapfrogged or jettisoned depending on the time that a claim or application raising questions as to the validity of an election is made; or, that a claim or application raising such questions may be properly made at any time before election results are received. This result could not have been intended by the Constitution or the House of Assembly (Elections) Act, particularly given the longstanding pronouncements of this Court on the exclusive nature of the election jurisdiction and the insistence on the strict construction of and compliance with the procedures set out under the House of Assembly (Election) Act for such challenges to be made."

[19] **Section 98** of the **Act** states that:

"(1) In accordance with section 37 of the Constitution, the High Court shall have jurisdiction to hear and determine any question whether any person has been validly elected as a member of the House of Representatives, on application being made to the High Court for the determining of any such question.

(2) Any application of the kind referred to in subsection (1) shall be made on petition."

[20] In addition, **Section 99** of the **Act** states:

"(1) Every election petition brought under section 98 shall be tried before the High Court in the same manner as a suit **commenced by a writ of summons**. At the conclusion of the trial, the Judge shall determine whether the member of the House of Representatives whose return or election is complained of or any and which other person was duly returned or elected, or whether the election was void." [emphasis added]

[21] The claimant has failed to satisfy the mandatory provisions to commence proceedings invoking the court's election jurisdiction. The question as to whether

a person has been validly elected has been illustrated by Davis CJ in **William Bruce Williams v Emmanuel Henry Giraudy and another**⁴, in the following manner: “the means by which a question is determined whether a person is validly elected or not is by an election petition.”

- [22] The claimant’s concerns ought to have been properly addressed by way of Fixed Date Claim, the form of which is sufficiently outlined in CPR 8.1 (5)
- [23] The claimant also seeks an injunction to stop the election. The Court of Appeal in **Loftus Durand & Ors v President of the Commonwealth of Dominica, Charles A. Savarin & Ors** applying the decisions in **Gladys Petrie v The Attorney General**⁵; **Seecomar Singh and another v R.C. Butler**⁶; **N.P. Ponnuswami v The Returning Officer Namakkal Constituency**⁷ said the decisions very clearly support the view that there is no power vested in the court to either pre-emptively enquire into the validity of an election or grant an injunction to facilitate that enquiry, in circumstances where there is vested an exclusive jurisdiction in a particular tribunal to determine such matters after an election has been conducted.
- [24] In **Gladys Petrie**, the applicant prayed the court to injunct an impending general election in Guyana on the basis that Acts of Parliament and the regulations made thereunder, by virtue of which the elections to the National Assembly were to be held, were unconstitutional and that the register of electors compiled under the Acts, and the proposed election on the basis of that register were null and void.
- [25] In **Ponnuswami**, the appellant sought to quash the decision of the returning officer to reject his nomination paper and to direct the returning officer to place his name on the list of nominations to be published for the purposes of an imminent election. The question before the court was whether it could grant such relief, given that the election had not yet occurred.

⁴ (1975) 22 WIR 532

⁵ (1968) 14 WIR 29

⁶ 1973) 21 WIR 34

⁷ (1952) SCR 218

[26] Applying the legal principles from the authorities mentioned clearly renders the claimant's application for an injunction prior to the elections pre-emptive and the claimant's application must be dismissed. The claimant has also failed to comply with the mandatory requirements to engage the court.

ORDER

[27] Accordingly for the reasons outlined, the claim stands dismissed with no order as to costs.

Agnes Actie
High Court Judge

By the Court

Registrar