

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
COLONY OF MONTSERRAT
(CIVIL)
A.D 2016



CLAIM NO. MNIHCV2015/0030

BETWEEN:

KENNETH SILCOTT

Applicant/Defendant

and

JOSEPH ABRAHAM SKERRITT

(As the lawful executor of the Estate of Christiana
Elizabeth Skerritt, deceased and trespass to land)

Respondent/Claimant

APPEARANCES:

Mr. Kharl Markham for the Applicant

Mr. Jean Kelsick for the Respondent

2016: April 4

2016: April 8

RULING

- [1] **REDHEAD J. (ag):** The Claimant Joseph Abraham Skerritt in his Fixed Date Claim filed on 7th October 2015 seeks among other things a declaration that the Defendant Kenneth Silcott is a trespasser to land at Davy Hill Parcel 38 Block

14/4 and that he, the defendant holds all rent collected by him in trust for the Claimant.

- [2] The Claimant was the son of Christiana Elizabeth Skeritt who was the daughter of Abigail Greenaway.
- [3] In his Defence, the defendant alleged by paragraph 3 thereof that the he, the defendant is the son of late Daniel Daley and further stated that his father Daniel Daley was the son of the late Abigail Greenaway and the brother of Christiana Elizabeth Skeritt. The late Christiana Elizabeth Skeritt was by extension the aunt of the defendant.
- [4] The defendant alleged that his grandmother Abigail Greenaway made a Will on or about 4th July 1975 and therein made devices of her real property at Davy Hill to her children John Greenaway, Mary Skeritt, Daniel Daley, Mary Tuitt and her grandson William Daley.
- [5] The defendant in his defence contended that his father Daniel Daley was one of the beneficiaries of Block 14/4 Parcel 38 and that he is entitled to inherit his father's interest in the land.
- [4] The defendant, Kenneth Silcott, by his Counsel makes application to the Court for an Order that the Estate of Denys Daniel Greenaway (also referred to as the Estate

of Daniel Daley) be added as a defendant as (i) the addition will enable the Court to resolve all the matters in dispute; (ii) these are issues involving the Estate of Daniel Greenaway which are connected to the matters in dispute and it is desirable to add the new party with a view to resolving the issues.

[5] The Applicant also applies to be appointed a representative of the Estate of DENYS DANIEL GREENAWAY.

[6] I shall grant the application to add the Estate of Daniel Greenaway as a defendant for the following reasons:

This application is governed by Rule 19.3 of CPR 2000.

Mr. Kelsick on behalf of the Claimant, in resisting the application argued that the applicant cannot establish locus standi.

The applicant in his affidavit swore, among other things that he occupied and entered into possession of a portion of Block 14/4 Parcel 38 with his father Daniel Daley in about 1997 and remained in possession and occupation of the property up to the date of his father's death on 29th March 2005.

The applicant also swore that the late Daniel Daley and him built a Wood Structure on portion of the land from their own resources and with the assistance of Montserrat Land Development Authority. He presently lives on this building which is situated at the western end of the land.

- [7] The defendant in his Amended Defence said that his father Daniel Daley was the son of Abigail Greenaway and the brother of Christiana Elizabeth Skerritt.
- [8] The defendant in his defence contended that he is entitled to inherit his father's interest in the land. His father had by conduct implicitly and consistently acknowledged the defendant as his son.
- [9] Mr. Kelsick argued that the defendant has no locu standi. There is no independent proof that he is the son of Daniel Daley. It is to mind interesting as in his statement of claim the claimant alleges that the defendant is the illegitimate son of Daniel Daley.
- [10] I therefore reject the contention that the defendant has no locus standi. In my considered opinion the estate of Abigail Greenaway is at the center of the dispute.
- [11] In the premise therefore the applicant is granted leave to add the Estate of Denys Daniel Greenaway as a defendant to the action and is appointed as a representative of the said Estate.



Albert Redhead

High Court Judge