

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FEDERATION OF SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT
(CIVIL)
A.D. 2014

CLAIM NOS. SKBHCV 2013/0331, 0332, 0333, 0334, 0335, 0336, 0337, 0338, 0339

In the Matter of the National Assembly Elections Act 2.01 of
the Revised Laws of Saint Christopher and Nevis 2009 ('the
Act')

In the Matter of a undated decision received on November
27th 2013, by the Registration Officer on an Objection
considered by him under the Act against the inclusion of one
SHANIKA CAINES, NAOMI WILLIAMS, MERENPATAH
ASSANTE, JAMES BRADSHAW, LEO DOUGLAS, MATILDA
BRADSHAW, JAMILA WILLIAMS SHAKINA CAINES and
RAUL CLARKE in the Register of Voters for Polling Divisions
#5 of the Electoral District of Saint Christopher #4
(Challengers, Old Road, Verchilds, Middle Island, Lamberts,
Conyers, Half Way Tree)

BETWEEN:

CHERITA CLARKE
APPELLANT

And

WINGROVE GEORGE
RESPONDENT

Appearances

Mr. Lindsay F. P. Grant with Ms. Constance V. Mitchum and Suzy St. Brice for the Appellant
Mr. Philmore Warner and Ms. Alethea Gumbs for the Respondent

2013: October 31, November 14
2014: May 26, August 27

Registration of Voters – Right of Objection – Objections Disallowed – Whether Registration Officer has acted properly – Persons ‘Ordinarily Resident in Constituency’ – Whether Affidavit Evidence Admissible at Objection’s Hearing – Notice of Hearing to Registered Voter – Absence of Registered Voter at Hearing – Approach of the High Court

There is no statutory requirement that an appellant file an originating process in the High Court to lodge an appeal under section 54 of the National Assembly Elections Act Cap. 2:01. An appeal under the Act is properly commenced when any claimant or objector gives written notice of appeal, specifying the grounds of appeal, to the registration officer and to the opposite party if any, within seven days after the decision is given. Upon receipt of this notice of appeal, the registration officer shall immediately forward it to the Registrar of the High Court together with a statement of material facts, which in his opinion have been established in the case, and of his decision in the whole case, and upon any point which may be specified as a ground of appeal.

The Registration Officer is required to send to every registrant, the inclusion of whose name on the Register has been objected to, a notice pursuant to regulation 12 of the Act, of the hearing of the objection. On appeal, it is sensible that the registration officer indicate whether such proper notice has been sent out. The person whose name may be removed would well retain a valid right to oppose even the High Court’s decision to remove his or her name if proof can be then shown in a timely manner that no such notice was sent to him or her. *En passant*, it would be very helpful, having regard to the several ways in which someone may be qualified to be registered, for the registration officer to state clearly in his reasons for decision, the date when a person was first registered in a particular constituency, and on what basis he or she was qualified. This type of information would assist the High Court considerably and will no doubt operate to bring greater transparency and integrity to the process.

The registration officer is required to consider all admissible evidence at the hearing of the objection. Relevant affidavit evidence sworn to by a deponent who is present at the hearing and which is evidence of matters known to the deponent personally of his own knowledge, is admissible. Unless such evidence is manifestly unreliable in itself, such as for example being inherently inconsistent, the registration officer ought not reject it on the basis of credibility except for proper reasons fully stated in the reasons for decision. Proper reasons for rejecting such evidence may well include credible contradictory evidence which for good reasons, is preferred to the affidavit evidence; such good reasons must be set out in the reasons for decision.

A person is qualified to be registered as a voter for a constituency, if on the registration date he or she is a citizen of Saint Christopher and Nevis of eighteen years or upwards and is ordinarily resident in Saint Christopher and Nevis within that constituency. A citizen of St. Kitts and Nevis may also be qualified to be registered as a voter for a constituency notwithstanding he or she is ordinarily resident overseas, if he or she was registered to vote in that constituency immediately before leaving St. Kitts and Nevis. A citizen of St. Kitts and Nevis who is ordinarily resident overseas is also qualified to be registered to vote in a particular constituency and may apply to be so registered, if immediately before leaving St. Kitts and Nevis he or she was ordinarily resident in that constituency, or if he or she was never resident in St. Kitts and Nevis, such a citizen is qualified and may apply to be registered in that constituency where his or her mother was last ordinarily resident, or in the event his or her mother was never resident in St. Kitts and Nevis, in that constituency where his or her father was last ordinarily resident. A Commonwealth citizen who has been ordinarily resident in St. Kitts and Nevis for a continuous period of at least twelve months

immediately prior to registration is qualified to be registered in that constituency where he is ordinarily resident at the date of his registration.

Where, however, any such registrant, who being qualified on the basis of his or her being ordinarily resident in St. Kitts and Nevis, has ceased to reside in the constituency of his or her registration, and becomes qualified to be registered in another constituency, he or she will no longer be qualified to remain on the list of voters for his or her original constituency. Evidence that a person qualified to register on the basis of being ordinarily resident in a constituency, has never lived in that constituency where he has been so registered to vote, is evidence which is sufficient to make out a prima facie case at that sufficiently high level that the person's name should be removed from the Register of voters for that constituency. Where such a registrant, on being properly notified of the hearing, fails to attend, and there is no evidence contradicting evidence that he or she was never ordinarily resident in that constituency, then that person's name should be ordered removed from the Register. Where the only admissible and credible evidence at the hearing is that such a registrant was not ordinarily resident in the constituency of his registration at the date of his registration, his or her name should in the normal case, be removed from the Register.

JUDGMENT

- [1] **RAMDHANI J. (Ag.)** These are nine separate appeals brought under section 54 of the **National Assembly Elections Act** from decisions made by the Registration Officer on objections made by the Appellant to the inclusion of nine persons in the Register of Electors for Constituency number 4. The appeals, by the agreement of the parties were consolidated.
- [2] The appellant describes herself as someone who has lived in Half Way Tree for upwards of twenty years and who has been involved in active politics during this time, specifically for 'been in charge of the voters list for Half Way Tree' which responsibility involves knowing the persons on the list and identifying them for the People Action Movement (PAM), a registered political party in St. Kitts and Nevis.
- [3] The nine persons who have been included in the voters list for Half Way Tree and are the subject of the appeals are one Shanika Caines, Merenpatah Asante, James Bradshaw, Lea Douglas, Matilda Bradshaw, Jamila Williams, Shakina Caines and Raul Clarke - claims numbers 331, 332, 333, 334, 335, 336, 337, 338 and 339 of 2013 respectively ('the registrants').
- [4] The appellant's complaints in relation to each of the appeals on her objections are substantially similar. She states that, in dismissing her objections to the inclusion of the names of the nine

persons on the January 31, 2013 Register of Voters for Half Way Tree, the respondent failed to give due regard to her sworn evidence at the hearing held on the 21 May 2013, that any of the registrants were not at the material time ordinarily resident in Half Way Tree. She also complains that the respondent has failed to properly apply the relevant legal principles in deciding whether any of the named persons should have been deemed ordinarily resident and whether the appellant would have presented sufficient evidence to show that each and every was not so 'ordinarily resident' in Half Way Tree at the material time.

The Hearing on the Objections and the Reasons for the Dismissal of the Objections

- [5] The hearing on the objections was held on the 31 May 2013 at which the appellant personally attended and gave sworn evidence. With regard to some of the registrants, she also presented sworn affidavits to support her objections. None of the registrants appeared at the hearing.

The Issue

- [6] The issue for me is whether the Registration Officer approached his task in the proper way, and primarily whether he had due regard to the evidence before him on these objections.

The Law and Analysis

The Registration of Electors to Vote

- [7] The **Constitution** of St. Kitts and Nevis confers a right on every citizen of St. Kitts and Nevis and the Commonwealth who have attained the age of eighteen years and who possesses such qualification relating to residence and domicile as is prescribed by Parliament an entitlement to be registered (unless he is disqualified from such entitlement to be registered), as a voter for the purpose of electing Representatives in any particular Constituency in accordance with the provisions of the applicable laws made by Parliament. Section 29 of the **Constitution**.
- [8] The enabling law is the **National Assembly Elections Act** Cap 2.01 ('the Act') and the rules made thereunder. Section 37 of the Act as amended reads as follows:

37. Qualification of Voters

(1) Subject to this Act and any other enactment imposing disqualifications for registration as a voter, a person is qualified to be registered as a voter for a constituency, if on the registration date he or she is;

- (a) a citizen of Saint Christopher and Nevis of eighteen years or upwards is ordinarily resident in Saint Christopher and Nevis;*
- (b) a citizen of Saint Christopher and Nevis of eighteen years or upwards whose name appears in the register of voters for a constituency and who is ordinarily resident overseas and has a domicile in Saint Christopher and Nevis in accordance with section 37B(1);*
- (c) a citizen of Saint Christopher and Nevis of eighteen years or upwards who is ordinarily resident overseas and has a domicile in Saint Christopher and Nevis in accordance with section 37B(2);*
- (d) a Commonwealth citizen (not being a citizen of Saint Christopher and Nevis) of eighteen years or upwards who has been ordinarily resident in Saint Christopher and Nevis for a continuous period of at least twelve months immediately before the registration date.*

(2) A person is not qualified to be registered as a voter for more than one constituency.

(3) Where a person who is registered as a voter for a constituency has ceased to reside in that he or she shall not on that account cease to be qualified to be registered as a voter for that constituency until he or she has become qualified to be registered as a voter for another constituency.

- [9] The conjoined effect of these provisions are generally literally expressed. A person is qualified to be registered as a voter for a constituency, if on the registration date he or she is a citizen of Saint Christopher and Nevis of eighteen years or upwards is ordinarily resident in Saint Christopher and Nevis within that constituency. A citizen of St. Kitts and Nevis may also be qualified to be registered as a voter for a constituency notwithstanding he or she is ordinarily resident overseas, if the or she was registered to vote in that constituency immediately before leaving St. Kitts and Nevis. A citizen of St. Kitts and Nevis who is ordinarily resident overseas is also qualified to be registered to vote in a particular constituency and may apply to be so registered, if immediately before leaving St. Kitts and Nevis he or she was ordinarily resident in that constituency, or if he or she was never resident in St. Kitts and Nevis, such a citizen is qualified and may apply to be registered in that constituency where his or her mother was last ordinarily resident, or where his or her mother was never resident in St. Kitts and Nevis where his or her father was last ordinarily resident. A Commonwealth citizen¹ who has been ordinarily resident in St. Kitts and Nevis for a

¹ Not a citizen of St. Kitts and Nevis

continuous period of at least twelve months immediately prior to registration is qualified to be registered in that constituency where he is ordinarily resident at the date of his registration.

- [10] Both the **Constitution** and the Act expressly states that no person shall be registered in more than one constituency. It is instructive to pay careful attention to section 37(3) which provides that once a person is registered to vote in a specific constituency, but has ceased to reside in that constituency, 'that person shall not on that account cease to be qualified to be registered as a voter for that constituency until he or she become qualified to be registered as a voter for another constituency.'² [emphasis supplied]
- [11] Section 37 clearly allows persons who were qualified to be registered to vote at the date of registration, to be entitled to remain registered and entitled to vote regardless of whether they have left the jurisdiction subsequent to registration.
- [12] Section 37(3) effectively prescribes that once he or she becomes ordinarily resident in any other constituency thereby satisfying the requirements of section 37(1) in relation to that other constituency, and ceases to reside in the constituency of his or her registration, he or she is liable to be removed from the list of voters for the first constituency. It would seem that proof that a person, who was qualified to be registered in one constituency, no longer resides in that constituency is not sufficient to remove that person from a list unless proof is also submitted that the person has become qualified to be registered in another constituency. This would of course mean that proof that a person, whose name is on a register of voters, and who was not qualified to be on that list on the date of registration, or more startlingly, who never resided in that constituency of registration, is a person who was therefore never entitled to be registered on that list; such a person's name must be removed.
- [13] The Act provides for the publication of an annual Register of Voters on the 31 January of each year for each constituency. This Register of voters shall comprise the names of all persons who were registered in the register of voters last published for that constituency as well as those persons who

² Section 37(3)

were duly registered on the monthly lists following the last publication of the Register of Voters. The current Register of voters however, shall not include the names of anyone who has since been deceased or have become ordinarily resident in another constituency.

[14] The monthly lists that follow the publication of the annual Register of voters allows for continuous registration. The names of persons who have moved out of a constituency and have become ordinarily resident in another constituency, and have properly informed the Chief Registration Officer of a change of address are required to be removed from the list of voters for that constituency. So too, if someone who is registered to vote in another constituency, has now become ordinarily resident in the particular constituency, his or her name is to be added to the monthly list. These monthly list should also include the names of persons who have come of age to vote and who are otherwise qualified.

[15] Once the monthly list is published, the Act provides a 'claims and objections' mechanism to ensure that the names of persons who are not eligible to be registered to vote in that constituency, are removed. This being done a revised monthly list is then published in accordance with section 46.

The Claims and Objections Process

[16] The monthly lists are designed to ensure that the names of all new and eligible voters qualified to vote in any particular constituency are added to the list of voters for that constituency. The claims and objections process seeks to fulfill a deeper purpose. It not only seeks to ensure the names of qualified voters that have been left out, are added to the list, but it also seeks to prevent multiple registrations. When this process operates effectively, it minimizes the opportunities for a 'padding' of the lists with the names of persons who are not eligible and qualified to vote in that constituency. Put simply this process seeks to protect the integrity of the list of voters.

[17] Section 45 provides:

"(1) All claims for registration made by a person whose name does not appear in the register or the appropriate monthly list and all objections to the registration of persons

whose names appear in the register of voters and in the monthly lists, as the case may be, shall be determined in accordance with the regulations by the appropriate registration officer acting with respect to the constituency to which the register or list in question relates."

(2) When a claim thereunder has been disallowed or an objection thereunder has been allowed, the registration officer shall transmit a record of his or her determination to the Chief Registration Officer."

- [18] Under the Act only a person registered on the list of voters may file an objection in the prescribed manner to the inclusion of any name on the register or the monthly list within ten days of the date of the 'posting' of the register or the list.

The Approach of the Appropriate Registration Officer on an Objection

- [19] When an objection is made under the Act to the inclusion of the name of any person on the register or a monthly list, the Registration Officer is required to give notice of such objection by posting a notice in the prescribed form on two conspicuous buildings in the constituency, setting out in the list, those names to which a notice of objection has been given. This notice is to remain posted for at least five days.
- [20] The Registration Officer is required to give at least five days notice in writing, of the hearing to the objector and the person whose name has been objected to of the date and time of the hearing of the objection. It is instructive to note that the Act, clearly with the intent to make this process a transparent one, gives an entitlement to agents of political parties or candidates to be present at such hearings.
- [21] The Act stipulates that any person who has objected to the inclusion of any name in the register or list of voters is required to attend in person before the Registration Officer to show cause why the name objected to should be deleted. If the objector does not attend, the Registration Officer may disallow the objection.³

³ Regulation 35

[22] I have noted that a number of earlier authorities have made the point that if a person whose name has been objected to, does not attend the hearing, his non-attendance should not have the effect that the objection should be allowed.⁴ I agree with this. The registrant is not required to prove why his name is on the list. It is for the objector to prove that his name should not be there. The registrant may simply sit back and allow the objector to prove his case. The registrant's absence, however, must not be considered a trivial matter. I have noted that in this case, none of the registrants have attended the hearing. I have not been told why, or even whether the Registration Officer sent the proper notice. The 'Reasons for Decisions' are absolutely silent about this. To my mind, the Registration Officer would do well to indicate in his reasons that the registrant has been so notified in accordance with Regulation 20, as in an appropriate case, where the evidence meets the threshold, this court is entitled to properly proceed to remove the non-attending registrant. To my mind, the registrant takes the risk of being removed when he refuses or fails to attend the hearing, as evidence may be led which proves that he should be removed from the list. I am of the view that if the objector presents cogent prima facie evidence that the registrant is not eligible to be on the list, the Registration Officer should only proceed if he verifies that proper notice had been sent to the registrant, because if that person fails to attend, the consequences might be an improper removal of the registrant's name.

[23] At the hearing, there is a burden on the objector to prove his case. He is required to do so on a preponderance of evidence. We are here dealing with the right of someone to vote. This right is constitutionally recognized. Accordingly, any statutory scheme relating to the registration of voters must be construed in such a manner to promote lawful enfranchisement and seek to prevent disenfranchisement except for good cause on nothing less than very good evidence.

[24] That being said, this is a scheme which ensures that only lawful voters remain on the list. Objections must not be taken lightly, but must be duly considered on proper evidence. Such evidence should properly come from the objector and his witnesses giving oral testimony on oath at the hearing. Having regard to the nature of these proceedings, there is no basis to conclude that

⁴ Terrence Henry v Leonard O'Laughlin et al Claim No 42 of 1999; Civil Appeal No. 12 of 1999 quoted with approval in Laureen James v Dudley Williams Claim Nos. 97 to 113 of 2007

hearsay evidence should be allowed. However, there is also nothing to bar evidence being given on affidavit, subject the Registration Officer's decision to ask such witnesses to attend and be cross examined on their affidavits.⁵

[25] The fact that someone's name is on the list should properly be taken to mean that the proper investigations have been done for the inclusion of his name. When these objections are taken, and sufficient evidence is presented to show that the person's name should be removed, the Registration Officer would do well to conduct his own investigations to ascertain whether there is any merit in the objection. If an objector states under oath that he knows the registrant personally and knows that the registrant has moved to another constituency, the Registration Officer should at least make checks in that other constituency to determine whether that person is now registered to vote in that constituency. It would be an artificial exercise, if the Registration Officer hearing evidence that the registrant no longer lives in one area were to simply ignore it because he is personally seized of information which tells him that the objector's information is wrong. At the very least, the Registration Officer should disclose this information in his reasons so that this court may assess this information.

[26] When the Registration Officer makes a decision either allowing or disallowing the objection, there is a right of appeal under section 52, under which section these appeals have been brought. There is no statutory requirement that an appellant file originating process to the High Court to lodge an appeal under section 52 of the **National Assembly Elections Act** Cap. 2.01. An appeal under the Act is properly commenced when any claimant or objector gives written notice of appeal, specifying the grounds of appeal, to the registration officer and to the opposite party if any, within seven days after the decision is given. Upon receipt of this notice of appeal, the Registration Officer shall immediately forward it to the Registrar of the High Court together with a statement of material facts, which in his opinion have been established in the case, and of his decision in the whole case, and upon any point which may be specified as a ground of appeal.

⁵ See Regulation 36

[27] These appeals have been commenced by an originating process, first filed by the appellant within the time prescribed, and then the Registration Officer filing his statement of reasons in response. Notwithstanding, all the parties proceeded on the basis that the appeals were properly before the court. Accordingly, having regard to the legal principles set out above I now turn to each of the appeal.

Shanika Caines – Claim No. 331 of 2013

[28] On this objection, the appellant relied on an affidavit sworn to by one Arthur Cranston, who deposed that he is the uncle of the registrant, Shanika Caines and that 'she lives in Saddlers and has lived there for most of her life except for a brief period where she lived in St. Paul's where she was born'. He further stated that she was unemployed and that he had visited 'their residence several times, they live in an upstairs and downstairs house'. He states that Ms. Caines 'has never ever resided at Conn Phipps, Half Way Tree now or at any time whatsoever.' He also states that one day before he had sworn his affidavit, he had visited his sister, Arie Hanley Caines, the mother of the registrant that she told him that the registrant 'had never lived in Half Way Tree but that she was asked to register there'.

[29] The respondent did not uphold this objection on the evidence presented. In dismissing the objection against Shanika Caines he said: *"After carefully studying your affidavit I have not found anything worthy of being classified as evidence to prove to me that Shanika Caines was unduly registered, you not knowing anyone by that name is not evidence that such a person does not exist there or should not be registered there, moreso your affidavit is also overloaded with hearsay evidence which cannot advance your case in any way. I have also read the affidavit of your witness Arthur Cranston very carefully, and he too is not any assistance to your case, as he being the uncle of the registered does not mean she is not duly registered. Mr. Cranston is like your bringing hearsay evidence which is in admissible."*

[30] I can hardly understand the reasons given by the Registration Officer. Here was the uncle of the registrant saying that of his own personal knowledge that he knows that Ms. Caines 'has never ever resided at Conn Phipps, Half Way Tree now or at any time whatsoever.' This deponent was

present at the hearing. Whilst the Registration Officer was entitled to reject the hearsay portion about Mr. Cranston's conversation with his sister. I do not understand why the Registration Officer rejected the rest of this affidavit evidence. This is evidence which is the kind of evidence suggested by Barrow J.A. as being sufficient to disenfranchise a person, that is, evidence which shows that 'the objector claimed to know these persons individually and she was able to say of her own knowledge that they never lived at these addresses because she knew that they lived at other addresses or because she knew the particular addresses, she knew the inhabitants and occupants of those dwellings and that these persons never lived there would have been sufficient perhaps to have established what really was necessarily only a prima facie requirement at the sufficiently high level to disenfranchise these persons.'⁶

[31] I find that the evidence of Mr. Cranston on his affidavit, did get to a prima facie case at that sufficiently high level. Where there was nothing to contradict this evidence, then such evidence was capable of grounding the necessary proof that this registrant's name should not be on the list.

[32] Having regard to my approach on this matter, and the position taken by the Registration Officer, I will remit this matter to him and direct that he ascertain whether proper notice was sent to Ms. Caines in accordance with Regulation 19. If proper notice was sent, then Ms. Caines name is to be removed from the list of voters. I have chosen to take this approach as the registrant may well be able to argue that even this appeal process was flawed if it were to be shown that no proper notice had even been sent. I see no utility therefore in relying on the presumption of regularity as regards to notice. Much time and resources will be saved if the issue of notice is dealt with in this manner.

Naomi Williams – Claim No. 332 of 2013

[33] The evidence at the hearing was given by the sworn affidavit of the appellant. She stated that she has lived in Half Way Tree all her life and that she knows Naomi Williams who has never lived in the Half Way Tree area but for some time has lived in Old Road, and 'at present lives in New Road

⁶ Dudley Williams v Lauren James Civil Appeal No. 97 of 2007

next to Eloise shop.' The appellant described the residence and produced three photographs of the house where she claims the registrant now lives which is electoral district of St. Christopher No. 2.

[34] The respondent dismissed this objection and in his reasons for doing so stated that the appellant had not brought any evidence to prove that Naomi Williams's name should not be where she is registered. He said that '[a]s your pictures of a house somewhere in the world is not any proof that a person is not duly registered. Ms Williams is nowhere in any of those pictures and even if she was, it would have meant very little still. I can take a picture in front of the White House and or Buckingham Palace. But that still will not mean that I live or even lived there..."

[35] The reasons provided by the Registration Officer do not make it clear whether he considered that the objector was not a witness of truth. He was surely saying that he did not give much weight to the pictures. In his reasons, however, he does not address the objector's statements that she knew the persons who resided in Half Way Tree and she knows the Registrant and that the registrant has never lived in Half Way Tree. In this face of this evidence, I cannot understand the Registration Officer's statement that the objector 'had not brought any evidence to prove that Naomi Williams's name should not be where she is registered'. In the absence of the Registration Officer having reason to disbelieve the objector, (and he does not say that he disbelieves the objector) the objector was bringing proper evidence that has, in my view met the threshold of creating a prima facie case which is capable, in the absence of any evidence to the contrary, of proving that the registrant should not be on the list of voters for this constituency. Again, I will remit this to the Registration Officer to confirm that proper notice was sent to Ms. Williams. If this notice was in fact sent, then Ms. Williams' name is to be removed from the list.

Merenpatah Asante – Claim No. 334 of 2013

[36] The evidence at the hearing came from the appellant. Relying on her residence, work and experience she stated she carried out extensive enquiries and search and did not find anyone in her village by that name, accordingly this registrant is not known in Half Way Tree. She also relied on a 'Facebook page' which she produced which on its face belongs to a Merenpatah Asante and states that he was living in London. She also provided a copy of the London Gazette dated the 10

March 1997, which shows an advertised change of name by one Merenpatah Asante by Deed Poll from Reynall Sylvester Douglas – she states the latter is a popular St. Kitts' name.

- [37] The respondent dismissed this objection. He stated that: *"In paragraph three (3) of your affidavit you said, 'I have not known anyone by the name Merenpatah Asante to have resided in Half Way Tree now or at any time whatsoever', but you not knowing does not mean that such a person does not exist, live there or should not be registered there. Paragraph four (4) of your affidavit is purely hearsay and also not considered evidence, and a picture of a Facebook page, cannot determine if Mr. Merenpatah Asante is not properly registered. I have a friend who is from Jamaica, lives in New York but yet her Facebook profile says she was born in London and lives in Paris. Even me, my Facebook page says I was born in 1903. What you have presented to me cannot satisfy me that you have a legitimate claim to remove Merenpatah Asante's name from the list."*
- [38] There is only one way that this objection might make sense if this evidence had met the threshold, that is, on the basis that Mr. Asante was registered on the basis of residency. The objector is saying that this registrant never resided in Half Way Tree, but he may well have been registered on the basis of his mother or father's residency.⁷ In any event, I agree with the Registration Officer for the reasons stated that this objection must fail. There has been no proper evidence presented that this registrant has not been properly included on the list of voters, and that at the date of registration this registrant was not properly qualified in accordance with section 37(1) of the Act.
- [39] Before leaving the instant appeal, I feel compelled to say that it would be very helpful, having regard to the several ways in which someone may be qualified to be registered, for the registration officer to state clearly in his reasons for decision, the date when a person was first registered in a particular constituency, and on what basis he or she was qualified. This type of information would assist the High Court considerably and will no doubt operate to bring greater transparency and integrity to the process.

⁷ See section 37(1) (c) and section 37B(2)

James Bradshaw – Claim No. 334 of 2013 and Matilda Bradshaw – Claim No. 336 of 2013

- [40] I have decided to treat with these two appeals together as it appeared to me that both sides had accepted these two persons are a husband and wife couple.
- [41] At the hearing, evidence on oath was given by the appellant who again relied on her long standing residence and her voters' list activities. She again stated that she had carried out extensive inquiries in her village and she found no one 'by the name of James Bradshaw to have resided in Half Way Tree now or at any time whatsoever. She stated that her enquiries did discover a James Bradshaw who is originally from Montserrat and now is a retiree living in Camps; an area in a different electoral district. She produced pictures of a house that was said to be situated in the Camps area and she claims that this is the house where Mr. Bradshaw lives.
- [42] With regard to Matilda Bradshaw the appellant had stated at the hearing that she made inquiries regarding this registrant who is described on the list as an 'attendant' residing in Half Way Tree. Her affidavit states that she has not found anyone by this name in Half Way Tree. She said that she discovered that this person lives at Camps in Basseterre. She produced a picture of the residence in 'Camps'.
- [43] The respondent dismissed both these objections and stated with regards to James Bradshaw that:
"You not knowing if anyone has that name is not only evidence to remove a person name, moreso you not knowing the person is a fundamental reason for me to dismiss the case against James Bradshaw forthwith, however, even if I am mindful to consider the other parts of your affidavit, I will direct you to paragraph four (4) which is not only hearsay, but there is no place in Basseterre called Camps."
- [44] The reasons given by the registration officer with regards Matildo Bradshaw were effectively the same.

[45] This objector was saying that two registrants were living in 'Camps', and this at the very least should have alerted the Registration Officer, that this 'husband and wife duo' were living in an area which was apparently another constituency. Surely at the hearing, the Registration Officer could have asked the objector where exactly this place was in Basseterre. This court is entitled to take judicial notice of matters of common usage, and this court is well aware that there is a place in Basseterre commonly referred to as 'Camps'.

[46] Assuming that the Bradshaws had been properly notified, the Registration Officer should really have sought to make some investigations about this location. In the circumstances, I will remit these two objections to the Registration Officer for him to carry out an investigation relating to these two registrants and to rehear this objection.

Lea Douglas – Claim No. 335 of 2013

[47] At the hearing the appellant gave evidence on oath stating that this registrant is someone who is personally known to her 'for a long time'. She stated that Ms. Douglas 'resided in Half Way Tree for a brief period in 2010 and she now resides in Newton Ground in the last project built. She is originally from Newton Ground and works at Harowe Servo'

[48] The respondent dismissed this objection and states that: *"You swearing to an affidavit that person lives in a certain place is not any evidence to prove that their name should not be where it is registered. What if I present an affidavit to say that Cherita Clarke lives with me in Sandy Point, would that truly change your true place of abode? Of course not. Your case against Lea Douglas is very very weak..."*

[49] The objector is saying that this person has lived in half way tree for a brief period in 2010. Now that may well have grounded registration back then. I am not told in the reasons whether this registrant was first registered in 2010. The list under question is a recent list. I will remit this matter to the Registration Officer for a rehearing of this matter. If this objection to be disallowed again, the reasons must now contain a statement as to when this registrant was first registered, that proper

notice was given, and that investigations were done as regards this registrant is now qualified to be registered in another constituency.

Jamilla Williams – Claim No. 337 of 2013

- [50] The appellant relied on her own affidavit at the hearing in which she deposed that she has 'known Jamilla Williams for a very long time [and] she has never lived in Half Way Tree.' She said that, *'I have campaigned in the area of New Guinea and Half Way Tree and know that she does not live and has never lived in Half Way Tree. I know that she lives in Rawlins Avenue in St. Paul's and works for the Government as a crossing guard. Her mother is Lillian Williams in St. Pauls.'*
- [51] In dismissing this objection, the respondent stated that the appellant's affidavit was very confusing and *'I can gather nothing from it to support to me that Jamilla Williams is not properly registered. If I am to take what you said that her mother lives in St. Pauls, that still has nothing to do with the registrant, my mother lives in Miami, but I live in St. Kitts.'*
- [52] It is difficult to see how the Registration Officer rationalized this objection having regard to the evidence before him. The objector was making a clear statement that the registrant, who is known to her for a very long time, has never lived in Half Way Tree. The Registration Officer, in the reasons, completely ignores this. This again, is strong prima facie information, which, if it not met by credible contradictory evidence, can rise to the very strong evidentiary threshold required. The integrity of this process would be better preserved if the Registration Officer would avoid such tongue in cheek avoidances and really consider the evidence before him. Surely he ought to have realized that the objector might have been making the statement about the mother to make the point that she really knows who she is speaking about, and not as if to say that wherever the mother lives, that's where the child would also be residing. I will again remit this objection for the Registration Officer simply to confirm that proper notice had been sent to the registrant, and if confirmed then this person's name should be removed from the Register. If proper notice was not sent then notice should now be sent and this objection reheard.

Shakina Caines – Claim No. 338 of 2013

[53] At the hearing, the appellant relied on the affidavit of one Arthur Cranston, a resident of Taylor's Village. He states: *"I have been asked to say whether I know one Shakina Caines. Shakina is my neice. Her mother is Arie Hanley Caines is my sister. She operates a store on Cayon Street. Shakina Caines lives in Saddlers and has lived there for most of her life except a brief period where she lived in St. Pauls where she was born. She is presently unemployed. I have visited their residence several times, they live in an upstairs and downstairs house. Shakina Caines to (sic) has never ever resided in Conn Phipps, Half Way Tree now or any time whatsoever. In fact I went to my sister yesterday and told her what was being done was wrong. She admitted that Shakina Caines had never ever lived in Half Way Tree but that she was asked to register there.'*

[54] The respondent dismissed the objection. He stated: *"After carefully studying your affidavit, I have found nothing worthy of being classified as evidence to prove to me that Shanika Caines was unduly registered. You not knowing anyone by that name is not evidence that such a person does not exist there and or should not be registered there, moreso your affidavit is also overloaded with hearsay evidence which cannot advance your case in any way, I have also read the affidavit of your witness Arthur Cranston very carefully, and he too is not any assistance to your case, as he being the uncle of the registered does not mean she is not duly registered. Mr. Cranston is like your bringing hearsay evidence which is [inadmissible]."*

[55] The Registration Officer clearly fell into error here as in Claim No. 331 discussed above. Here is cogent evidence from someone present at the hearing that the registrant never lived in Half Way Tree. I will remit this matter to the Registration Officer simply to confirm that proper notice was sent. If proper notice was sent this objection is allowed, and Ms. Caines' name is to be removed from the Register.

Raul Clarke – Claim No. 339 of 2013

[56] At the hearing the appellant relied on an affidavit sworn to on the 21 March 2013, by one Austin Coker. He deposed that he is a resident of Wingfield Road Old Road, and that he ha has known

Raul Clarke for over fifteen years. He said that he works with Raul Clarke at the EMS at the JN France Hospital. He stated: *"I have known Raul Clarke when he came to work as an EMS, he was then living in Parsons Ground. He then moved to Half Way Tree Village and since 2010 moved back to Parsons Village. On more than one occasion I have had the opportunity to drive with him in the ambulance and he Raul Clarke would have driven to his house where he lives in Parsons. He lives at #39 Parsons extension, Parsons Village."*

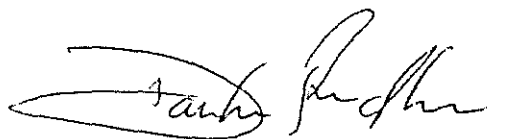
[57] The respondent dismissed this objection. He stated: *"I also took into consideration the affidavit of your witness Mr. Austin Coker and he too has not assisted in any way in advancing your case. If I am to ever believe from his affidavit him driving Mr. Clark to a house in Parsons is not proof that Raul Clark does not live in Half Way Tree."*

[58] I am unable to discern whether Mr. Clarke was first registered in Half Way Tree in 2010 when the evidence in the objection does admit that he lived there. I will remit this matter back to the Registration Officer for him to rehear this objection and carry out an investigation, at ascertain *inter alia* whether Mr. Clarke is no longer resident in Half Way Tree, and whether he is qualified to vote in another Constituency. If the Registration then disallows the objection, and this matter is again appealed, the reasons submitted to the court must state whether proper notice had been given.

Conclusions and Orders

[59] For the reasons given above, the objections relating to (1) Shanika Caines, (2) Naomi Williams, (3) Jamila Williams, and (4) Shakina Caines are remitted to the Registration Officer for him to determine whether proper notice had been sent to these persons. If proper notice had been sent, the objections are allowed and these names are to be removed from the Register. If proper notice was not sent, such proper notice must be sent to each of these persons and the objections are to be reheard. The evidence which is before the Registration Officer must be treated in the manner directed by this court, which if not met by any cogent evidence capable of rebutting it, must lead the Registration Officer to conclude that the threshold has been met.

- [60] Those objections relating to (1) Lea Douglas, (2) James Bradshaw, (3) Matilda Bradshaw, and (4) Raul Clarke are to be reheard taking into consideration the guidance given in this matter.
- [61] The objection relating to Merenpatah Assante is dismissed.
- [62] There will be no order as to costs in this matter.

A handwritten signature in black ink, appearing to read 'Darshan Ramdhani', written over a horizontal dotted line.

Darshan Ramdhani
Resident Judge (Ag.)