

SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO.: SVG HAD 5/2002

BETWEEN:

JUSTIN FORDE

Claimant

and

**THE OWNERS OF AND PARTIES INTERESTED IN
THE MOTOR VESSEL "THE SAINT" AND M.V. THE SAINT**

Defendants

Appearances:

Mr. Bayliss Frederick for Claimant

Mr. Parnel Campbell for Defendants

2002, September 30

RULING

BRUCE-LYLE, J: Having heard and analyzed arguments from both parties to this matter I hold as follows:

- [1] The Admiralty and Prize Jurisdiction Act Cap. 12 of the Laws of Saint Vincent and the Grenadines gives authority for warrants of arrest to be issued in furtherance of a Claim in Rem, whereby part 70 of the CPR 2000 comes into operation.
- [2] Part 70 of the CPR 2000 governs admiralty proceedings including those proceedings listed in Rule 70.2 and any other Admiralty Jurisdiction of the High Court.
- [3] Part 2.5(1) of CPR 2000 states:
 - "Except where any enactment, rule or practice direction provides otherwise the functions of the High Court may be exercised by –
 - (a) a Master;
 - (b) a Registrar;
 - (c) a single Judge of the Court whether or not assigned to the Member State or Territory in which the proceedings are taking place;
 - (d) the Chief Justice; or
 - (e) the Chief Registrarin accordance with these rules and any practice direction made by the Chief Justice."

- [4] In Saint Vincent and the Grenadines, the Registrar of the High Court performs the functions of the Admiralty Marshall. As said earlier, Part 2.5(1) of CPR 2000 provides for the Registrar performing the functions of the High Court except where any enactment, rule or practice direction provides otherwise.
- [5] Flowing from these premises, it is clear that the Registrar of the High Court or the Admiralty Marshall is empowered and has jurisdiction to hear applications and to decide on the issuance of warrants of arrest of ships in accordance with the provisions of Part 70 of CPR 2000.
- [6] Flowing from this, I therefore hold that Mr. Parnel Campbell's submissions on the Jurisdictional question fails. I have already held that the provisions of Part 70 of CPR 2000, especially part 70.9 of the said CPR 2000 were not complied with by Claimant's counsel, when this application was argued before me in Chambers, in that:
- (a) The affidavit filed in support of the application for the warrant of arrest was not sworn by "the party or its agents" with the contemplation of CPR 70.9(3) and
 - (b) No permission has been given by the Court for the use of the affidavit without the prescribed particulars under CPR 70.9 (3) (b) (i - iii).
- In this regard I hold that the warrant of arrest is void and of no effect.
- [7] I order the motor vessel "The Saint" to be released to the defendants forthwith. The Claimant will pay to the defendants the costs occasioned by this application, on final determination of this claim.

Frederick Bruce-Lyle
HIGH COURT JUDGE