

ST VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO.563 OF 1999

In the matter of Windward Properties Limited

and

In the matter of the Companies Act 1994

Appearances:

B Commissiong Esq QC for the Applicant

E Robertson Esq for the Respondent

2000: April 4

DECISION

[1] MITCHELL, J: These are written reasons for my decision to recuse myself from the further hearing of this suit and a related suit 550/1999. This suit is a Petition for Winding Up set down since 4 February 2000 for hearing in open court on 5 April 2000. The Plaintiff has probably set out from Denmark to travel to St Vincent for the hearing on 5 April. I regret the inconvenience that this late decision of mine will cause. It was only yesterday evening that I discovered in the box of files that I carried away from court an envelope addressed to me and containing a copy of a lengthy letter from Mr Othniel R Sylvester CMG QC to the Chief Justice, a Notice of Motion, and an Affidavit sworn by Mr Sylvester, the last two of which had been filed in this suit on 3 April.

[2] The reason for the recusal is that, in the Affidavit and the letter to the Chief Justice, Mr Sylvester accuses me of bias towards him and other wrongful motives and moves for my disqualification from adjudicating upon any aspect of the suits.

The Affidavit sworn by Mr Sylvester contains many accusations about an earlier decision in interlocutory proceedings in suit 550/1999 which is presently before the Court of Appeal and of my conduct towards him on a number of occasions when he attempted to approach me in the absence of counsel for the other side to discuss the future handling of the proceedings in suit 550 of 1999. He did not seem to understand it was not proper for either a litigant or his counsel to approach the judge to discuss a suit privately and in the absence of the court clerk. Nor did he understand that as a virtual litigant in the proceedings in question it was not proper for him instead of his counsel to be addressing the judge. Nor did he seem to understand, despite repeated reminders, that it was particularly improper for him and his counsel to approach the judge privately, in the absence of counsel for the other party to the suit, to discuss anything at all about the future conduct of the suit. If I spoke firmly and abruptly to him, it was to insist that he stop continuing to address me in spite of my repeatedly pointing these things out to him. If he feels that I am biased towards him, that is unfortunate. Given the bitterness evident in his Affidavit it would not be seemly for me to continue to deal with any aspect of the matter.

I D MITCHELL, QC
High Court Judge