

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)
A.D. 1996

#039



Suit No. 909 of 1994

BETWEEN:

MERILESE VELINOR

Plaintiff

v.

1. KENNETH POLINERE
2. PATRICIA JULES
3. MARIA MARK

Defendants

Mr. M. Gordon for Plaintiff
Mr. P. Husbands Q.C. for Defendants

1996: September 25;
October 2.

J U D G M E N T

MATTHEW J. (In Chambers).

On July 10, 1996 a summons was filed on behalf of one of the Defendants in this suit asking that the grant of Letters of Administration to Lucy Felicien in respect of the estate of Merilese Velinor be set aside or in the alternative to bring it into conformity with the order of the Deputy Registrar pertaining to this matter.

In support of that summons was an affidavit by the second Defendant. Learned Counsel for the Plaintiff submitted that the order of the Deputy Registrar is reflected in the grant of the Letters of Administration; that Jules did not have any interest in the estate of Merilese Velinor; and that the application which is in the nature of an appeal from the order of the Deputy Registrar is hopelessly out of time.

Merilese Velinor died leaving a Will dated November 24, 1994 by which she named Agatha Stephen the Executrix. Agatha Stephen lives in Antigua. By a power of attorney dated November 16, 1995 Agatha

Stephen named Lucy Felicien to be her attorney for the purpose of obtaining Letters of Administration with Will Annexed of the Succession of Merilese Velinor.

The grant of Letters of Administration No. 182/95 states that Letters of Administration of the late Merilese Velinor was granted to Lucy Felicien.

The Order of the Deputy Registrar in the preamble recognised that Lucy Felicien was the lawful attorney of Agatha Stephen under the power of attorney referred to above and then went on to state or rather order that Letters of Administration with Will Annexed be granted to the Petitioner with respect to the succession of the deceased.

Although the Solicitor for the Applicant has not specifically stated that, he seems to be indicating that the grant should have been to Lucy Felicien as attorney of Agatha Stephen. I understand that the whole reason for this application was to enforce security for costs. Quite frankly I am not sure whether the addition of the words "as attorney of Agatha Stephen" will assist the Applicant's cause but this is not my concern here.

Article 1019 of the Code of Civil Procedure states:

"In the case of a person residing out of the colony, administration or administration with the will annexed, may be granted to his attorney."

It seems to me that Agatha Stephen and Lucy Felicien have complied with that provision.

The article authorises the grant to the attorney. It is no authority for the proposition advanced by the Applicant.

The summons is dismissed with costs of \$250.00 to the Plaintiff.

.....
A. N. J. MATTHEW
Puisne Judge