

SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC 463

MC 58/2020

In the matter between

JEMMY LAURE

Applicant

(rep. by Mr. J. Camille)

and

IAN LAPORTE

Respondent

(rep. by Mr. S. Freminot)

Neutral Citation: *Laure v Laporte* (MC 58/2020) [2021] SCSC 463 27 July 2021

Before: Andre J

Summary: Leave to appeal out of time

Heard: 9 June 2021

Delivered: 27 July 2021

ORDER

The following Order is made:

The application is granted.

RULING

ANDRE J

Introduction

[1] This Ruling arises out of a notice of motion and affidavit filed by Jemmy Laure, the Applicant on 14 August 2020 wherein the Applicant seeks leave to appeal out of time.

Background

[2] The grounds as set out in the Applicant's affidavit in support of his appeal in summary are that the decision sought to be appealed against is the ruling of Magistrates Court delivered on 20 March 2020 (impugned ruling) and that the intended notice of appeal was filed on 14 August 2020 five months after the impugned ruling.

[3] The Applicant further avers that due to the Covid-19 pandemic, he had been unable to secure the services of an attorney at law to file his appeal within the prescribed 14 days after the ruling was delivered. The Applicant has produced as an attachment to his motion a copy of the intended notice of appeal and also a copy of *Official Gazette No .52 of 25 May 2020* and *351 of 2020 entitled Suspension of prescription and time limitation period (Temporary provisions) Act, 2020 (Act 17 of 2020)* and a copy of the said Act is also attached for the sight of the court.

[4] The Respondent objects to the motion on the basis that it is unbelievable that the Applicant wants to appeal after over 4 years, which is way out of time.

Legal Analysis of the Issues Arising from the Background to the Pleadings and Affidavit Evidence.

[5] It is uncontested that the Applicant had to appeal against the impugned ruling within fourteen (14) days of its delivery.

[6] The Applicant has however provided reasons for the leave to appeal out of time and supported the same by the production of the *Suspension of prescription a time limitation period (Temporary provisions) Act, 2020 (Act 17 of 2020)*.

[7] Noting the provisions of section 3 of the said Act more particularly 3 (1) (a) the said Act, *it is clear that a prescription period or time limitation period, within which legal proceedings*

or intended legal proceedings may be initiated or commenced shall be deemed to be suspended during the period of the suspension period.

[8] This court is satisfied that the court services were restricted at the material time and that the applicant has shown good cause to justify the non-compliance and the filing of the Appeal within the time as prescribed, and this is in line with the case of *Germain v R* (CN 1A/2005) [2007] SCSC 1 (05 March 2007)

[9] Further, it is to be noted that the impugned ruling is dated 20 March 2020 and not four and half years ago as argued by the Respondent.

Conclusion

[10] As the result, the following orders are made:

- (i) the application is granted; and
- (ii) both parties shall bear their own costs.

Signed, dated, and delivered at Ile du Port on 27 July 2021.

ANDRE J