



[2015] JMSC Civ. 99

**IN THE SUPREME COURT OF JUDICATURE OF JAMAICA**

**CIVIL DIVISION**

**CLAIM NO. 2014 HCV 03200**

<b>BETWEEN</b>	<b>RUTH OLGA HARRISON</b>	<b>1<sup>ST</sup> CLAIMANT</b>
<b>AND</b>	<b>PATRICK HARRISON</b>	<b>2<sup>ND</sup> CLAIMANT</b>
<b>AND</b>	<b>DEATA ANDREA WILSON</b>	<b>1<sup>ST</sup> DEFENDANT</b>
<b>AND</b>	<b>ROXANNE HARRISON</b>	<b>2<sup>ND</sup> DEFENDANT</b>
<b>AND</b>	<b>DENNI WILSON</b>	<b>3<sup>RD</sup> DEFENDANT</b>
<b>AND</b>	<b>JASHAWN NELSON</b>	<b>4<sup>TH</sup> DEFENDANT</b>
<b>AND</b>	<b>ROBERE WILSON</b>	<b>5<sup>TH</sup> DEFENDANT</b>
<b>AND</b>	<b>NORMAN DEAN NELSON</b>	<b>6<sup>TH</sup> DEFENDANT</b>
<b>AND</b>	<b>DEANNE NELSON</b>	<b>7<sup>TH</sup> DEFENDANT</b>
<b>AND</b>	<b>JAKEEM NELSON</b>	<b>8<sup>TH</sup> DEFENDANT</b>
<b>AND</b>	<b>ERRON HARRISON</b>	<b>9<sup>TH</sup> DEFENDANT</b>
<b>AND</b>	<b>MUNAIR HARRISON</b>	<b>10<sup>TH</sup> DEFENDANT</b>

**IN CHAMBERS**

**Susan Hill, instructed by Susan Hill & Co., for the Claimants**

**Lawrence Philpotts-Brown, instructed by Lawrence Philpotts-Brown & Co., for the  
1<sup>st</sup> & 2<sup>nd</sup> Defendants**

**Heard: April 22 & 23, 2015**

**APPLICATION FOR INJUNCTIVE RELIEF ORDER TO BE EXTENDED IN TIME – APPLICATION FOR INJUNCTIVE RELIEF ORDER GRANTED EX PARTE, TO BE DISCHARGED – NO POWER TO EXTEND INJUNCTIVE RELIEF WHICH HAS BEEN DISCHARGED DUE TO LAPSE OF TIME – BASIS FOR SEEKING INJUNCTIVE RELIEF, EX PARTE**

**ANDERSON, K., J**

[1] There may be circumstances wherein, if the matter in respect of which injunctive relief is being sought, is sufficiently urgent, it may be justified to seek *ex parte*, to obtain injunctive relief. Such circumstances though, will be rare. One such rare circumstance would be wherein the party against whom the injunctive relief is being sought, is out of the jurisdiction, or where that party's whereabouts are unknown, and the matter is one of extreme urgency.

[2] Simply however, because the opposing party is either out of the jurisdiction, or that party's precise whereabouts at the time when the injunctive relief is being sought, is unknown, would not in and of itself, justify the seeking of, much less, the grant by this court, of an *ex parte* injunction. In the final analysis, the main justification for the seeking and grant of same, must always be evidence of extreme urgency insofar as the applicants are concerned or alternatively, evidence showing that notice would, likely defeat the purpose for which the injunction is being sought. See: **N.C.B. v Olint Corp. Ltd.** – Privy Council Appeal No. 61 of 2008.

[3] In this case, even though the parties against whom the injunctive relief was being sought, are all resident out of the jurisdiction, it is clear that all the time when the claimants were seeking such relief, not only did the 1<sup>st</sup> and 2<sup>nd</sup> respondents have an attorney/agent, acting on their behalf within the jurisdiction, that then being: Attorney - Mrs. Joy Bayley-Williams of the law firm – Pickersgill, Dowding & Bayley-Williams, but, in any event, there was no risk whatsoever, that the claimants would be removed from the premises, such as would have, no doubt, caused them irreparable harm, if it had occurred. Instead, what the 1<sup>st</sup> and 2<sup>nd</sup> respondents wanted, was access to the relevant premises and for O'Brian Grant, to be removed from that premises. Also, what the 1<sup>st</sup> and 2<sup>nd</sup> respondents wanted, was for proper care and attention to be given to the 2<sup>nd</sup> claimant. The access to the premises which the 1<sup>st</sup> and 2<sup>nd</sup> respondents wanted, was for

the purpose of ensuring that said premises was/is properly maintained and for the purpose of periodic visits to their family members – being the claimants.

[4] In any event, it was only the 1<sup>st</sup> and 2<sup>nd</sup> respondents who were seeking to interfere with the claimants' use and enjoyment of the relevant property. Why then, was the application sought and obtained *ex parte*, against all of the respondents? At the very least, in this case, prior notice of the application for the injunctive relief, ought to have been provided to then counsel for the 1<sup>st</sup> and 2<sup>nd</sup> respondents. – Mrs. Bayley-Williams, before the hearing of that application, was in fact held. Additionally, it was entirely improper, in the particular circumstances of this particular case, for the injunctive relief, which was granted, to have been sought and obtained, *ex parte*, against all of the respondents. The injunction should only in fact, if it was properly to have been granted at all, have been granted against the 1<sup>st</sup> and 2<sup>nd</sup> respondents. There was no basis whatsoever, for injunctive relief to have been granted *ex parte* against any of the respondents, even moreso, as against the 3<sup>rd</sup> – 10<sup>th</sup> respondents.

[5] As regard the claimants' application for extension of the injunctive relief earlier granted by this court, it is now no longer open to this court to do so. The injunctive relief earlier granted by this court, and on several occasions thereafter extended, was, on the 25<sup>th</sup> March, 2015, extended until 22<sup>nd</sup> April, 2015. Today's date is 23<sup>rd</sup> April, 2015. As such, the injunction has already expired and it is now no longer open to this court, to extend any further, injunctive relief which is now no longer in force or effect. In that regard, see: **Ramkaise Manogeesingh & ors. v Airports Authority of Trinidad & Tobago** [1993] 42 W.I.R. 301, esp. at pp. 323g to 325a, per Persaud, J.A. and **Bolton v London School Board** – [1878] 7 Ch.D. 767, esp. at p. 771, per Malins, V.C.; and **Kaon Northover & anor. v Minett Lawrence** – [2015] JMSC Civ. 35, esp. at paragraphs 1-7, per K. Anderson, J.

[6] In the circumstances, the claimants' application for court orders, filed on 3<sup>rd</sup> October, 2014, is denied and the 1<sup>st</sup> and 2<sup>nd</sup> defendants' application for court orders, filed on 5<sup>th</sup> November, 2014, is granted. The costs of those applications are awarded to the defendants, with such costs to be taxed, if not sooner agreed. The defendants shall file and serve this order. In addition, it is ordered that the injunctive relief granted

against the 3<sup>rd</sup> – 10<sup>th</sup> defendants is discharged – court makes that order on its own motion. Leave to appeal is sought and granted.

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**Hon. K. Anderson, J.**