

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CLAIM NO. P 306 /1984

BETWEEN	MICHAEL SIRJUE	1 ST CLAIMANT
AND	PETER SIRJUE	2 ND CLAIMANT
AND	IAN SIRJUE	3 RD CLAIMANT
AND	CHERYL (SIRJUE) McLEAN	4 TH CLAIMANT
AND	THE ADMINISTRATOR GENERAL	1 ST DEFENDANT
AND	ROSE ANN SIRJUE	2 ND DEFENDANT

Claimants not appearing or being represented

Ms. Cassandra Anderson for the 1st Defendant

2nd Defendant in person.

IN CHAMBERS

26th June 2008

**Practice and Procedure – Application for leave to appeal order for an adjournment
– Application filed after the substance of the original application dealt with by
another judge – Whether application for leave an abuse of the process of the court**

BROOKS, J.

The present application has all the hallmarks of vexatious litigation. In it, Miss Rose Ann Sirjue seeks leave to appeal the decision of a judge of this court, in which he adjourned an application, which had come on before him, to another date and before another judge. As strange as the desire to

appeal may sound, it is rendered even more bizarre by the fact that Miss Sirjue did not wish for the first judge to hear the matter, and told him so at the time of the hearing. Stranger yet, is the fact that this present application was filed subsequently to the hearing and determination, by a second judge, of the original application which had come on before the first judge.

Regretfully, this court is made to endure this undesirable state of affairs because Miss Sirjue is not represented by an attorney-at-law. A modicum of objective reflection would have made the futility of the present application clear. The answer to a rudimentary question, which would have been asked by any attorney-at-law, would have resulted in even the thought of appeal, being instantly rejected. The question would be, “what is the relief which I would seek on appeal”. An answer based on legal principles would be; “nothing, all my legal issues have already been addressed”.

Miss Sirjue may well have other motivations and goals, but these could not be based on legal principles. When the abovementioned question was posed to her by the court, her answer included statements that, she has “indicated who should have dealt with [her] matter”, and “there is a great injustice for my matter to be placed before a different judge all the time”. These answers reinforce the point that there is nothing in Pusey, J’s order to be appealed. Her present application is therefore frivolous, vexatious and an

abuse of the process of the court. Because of the order which I shall make, I shall provide a chronology of the relevant events.

The Chronology

On 23rd October 2007 an application for an interlocutory injunction filed on 16th October 2007 by Miss Sirjue, came on for hearing before D. O. McIntosh, J. who adjourned the application for a date to be fixed by the Registrar.

On 5th November 2007, Miss Sirjue filed an application for leave to appeal McIntosh, J's. ruling adjourning the matter. The application for leave was set for hearing on 17th December 2007.

On 17th December, the application for leave to appeal came on before Jones, J. He adjourned that application to 20th February 2008.

On 2nd January 2008, Miss Sirjue filed an application for leave to appeal the order of Jones, J. in which he adjourned the application before him. That application was also set for hearing on 20th February 2008.

On 20th February 2008, the file came before Pusey, J. The minute of order for those proceedings states that it was an application for leave to appeal (it does not say which) which was for hearing. The order made was:

“Matter adjourned to the 29th February 2008 at 10:00 a.m. for one (1) hour before Justice Jones.”

The minute of order goes on to say that Miss Sirjue had asked Pusey, J. to excuse himself from hearing the matter.

On 29th February 2008 the matter came on before Jones, J. once again. The minute of order does not state which application was considered, but the ruling was; "Application Refused. Costs of \$8,000.00 to the Respondents". There were in fact two applications which were 'live' on that day; both applications for leave to appeal, the first against Justice McIntosh's order and the second against Justice Jones' order.

I have consulted with my brother, Jones, J. who informs me that his order was in respect of the application for leave to appeal the order of McIntosh, J. Miss Sirjue's affidavit filed 13th March 2008, indicates that she is of the view that the application which was before Jones, J. was the application for leave to appeal the order of Jones, J. The difference is mentioned as an aside, as neither of those applications is before me.

Despite Jones, J's. refusal of leave, Miss Sirjue was undaunted. On 4th March 2008 she filed the present application, in which she seeks leave to appeal the order of Pusey, J. adjourning the application(s) before him.

Analysis

As was hinted at above, the grounds on which the present application is based are in contradiction of the application itself. Whereas the

application seeks ostensibly to challenge the order for the adjournment, the grounds make it clear that Miss Sirjue was firmly of the view that Pusey, J. could not have properly heard the matter.

To be fair to Miss Sirjue, there are additional grounds stated, in which she criticizes the learned judge for inattention to detail and inaccuracy. In her oral submissions she also spoke to a number of administrative errors and omissions by the Registry, which though inexcusable, are not exclusive to her and is the standard complaint of almost every attorney-at-law practicing in the civil division of this court.

Despite Miss Sirjue's descent into pettifogging and complaint against the administrative system of the court, she has no legal basis for complaint against Pusey, J's. ruling. It is a ruling that she wanted him to make, yet she seeks leave to appeal it. Leave to appeal must be refused.

Conclusion

Miss Sirjue's proclivity to seek to appeal orders for adjournments indicates a disposition to abuse the process of this court, either through genuine ignorance or intent to be deliberately vexatious. Because she has wasted the time and resources of the court, she must pay the costs of this application, as well as the costs ordered by Jones, J., before filing any further application or re-listing for hearing, the application for the injunction.

For completeness, I should also order that leave to appeal this order is refused.

Ordered that:

1. Application for leave to appeal the order of Pusey J. made on 20th February 2008 is refused;
2. Costs of \$8,000.00 to the Respondents;
3. These costs as well as the costs ordered by Jones, J. on 29th February 2008 must be paid before the 2nd Defendant may take any further step in this claim;
4. Leave to appeal refused.