**TRESPASS**

**Instructing Attorney at Law : AUGUSTUS THOMAS**

**18-20 Pembroke Street,**

**Port of Spain**

**Bar No:THA2006142**

**Tel. No:752-5141**

**Advocate Attorney : CHRISTOPHER GIDLA**

**Attorney At Law**

**18-20 Pembroke Street**

**Port of Spain**

**Tel: 350-6259**

**Bar No. GIC2006148**

### IN THE REPUBLIC OF TRINIDAD AND TOBAGO

#### IN THE HIGH COURT OF JUSTICE

Claim # CV 03169 of 2011

##### BETWEEN

**RONALD RAMJIT Claimant**

##### AND

## 

## SHUKUNDAI SAMAROO Defendant

## NOTICE OF APPLICATION

The Defendant **SHUKUNDAI SAMAROO** of 76 Back Street, Cane Farm, Tacarigua, apply to the Court pursuant to part 26.7 of the Civil Proceedings Rules 1998 as amended (hereinafter referred to as “CPR”) for (a) an order to extend the time within which to file their defence to a date to be determined by the Court.

A draft of the Order sought is attached.

The grounds of the application are:

1. The Hounorable Mr. Justice Rahim on 4th day of October, 2011 gave an order for filing and serving the Defence by 19th of October, 2011.
2. The Claimant’s Attorney at Law indicated to the Defendant’s Attorney at Law that the Claim could be settled if a survey is done and the Claimant is compensated according to the survey.
3. Based on that indication the Claimant’s Attorney’s at Law obtained instructions from the Defendant and the Defendant agreed to the proposal and hence no defence was filed in contemplation that the matter would be settled.
4. However, the Claimant’s were changing their proposal in adding the things in the survey which are not built by the Claimant.
5. Since the original spirit of the negotiations were broken down and the settlement might not be forthcoming since the original proposal was changed, the Defendant asks this Hounorable court for an opportunity to defend the Claim.
6. Neither the Claimant nor the Defendants would be prejudiced in any way if this Hounorable Court grants the order sought especially in light of the fact that no trial date has been set.

An affidavit in support accompanies this application

Dated this day March, 2012

Christopher Ross Gidla

Attorney at Law for the Defendant

Notice

This application will be heard by His Lordship the Honourable ,in POS, Hall of Justice on the day of , 2012 at the Hall of Justice, Knox Street, Port of Spain at

If you do not attend this hearing an Order may be made in your absence

The Honourable Mr. Justice will deal with this application by

NB This notice of application must be served as quickly as possible on the Respondent to the Application.

The Court Office is at the Hall of Justice, Knox street, Port of Spain, telephone number 623-2747, Fax No. . The office is open between 9:00 am and 3:30 pm. Mondays to Fridays and between 8:00 am and 4:00 pm Mondays to Fridays except Public Holidays and court Holidays.

The Applicant address for service is :

Christopher Ross Gidla, 18-20 Pembroke Street, Port of Spain.

To:

Registrar

Supreme court

HALL OF JUSTICE

KNOX STREET

PORT OF SPAIN

AND TO: NARESH RAMCHANDANI

ATTORNEY AT LAW

TRINITY CHAMBERS

44-58 EDWARD STREET

PORT OF SPAIN

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## SHUKUNDAI SAMAROO Defendant

I, **AUGUSTUS THOMAS,** Attorney at Law, of 18-20 Pembroke Street, Port of Spain, in the Island of Trinidad make oath and say as follows:

1. The facts and matters deposed to herein are true and correct and within my personal knowledge except where otherwise stated in which case I verily believe them to be true and correct.
2. I am the instructing Attorney at Law for the Defendant and Mr. Christopher Gidla is the Advocate Attorney.
3. The Hounorable Mr. Justice Rahim on 4th day of October, 2011 gave an order for filing and serving the Defence by 19th of October, 2011. We have filed the Appearances on 5th of October, 2011.
4. The Claimant’s Attorneys at Law indicated to the Defendant’s Attorney at Law that the Claim could be settled if a survey is done and the Claimant is compensated according to the survey.
5. Based on that indication the we have obtained instructions from the Defendant and the Defendant agreed to the proposal and hence no defence was filed in contemplation that the matter would be settled.
6. On October 11, 2011 Attorneys for the claimant wrote to us with a recommendation of list of Chartered Valuators.
7. The Attorney’s contacted the Chartered valuators and were informed that the survey needs to be done by chartered quantity surveyor and not the Chartered surveyor and hence refused to do survey by the recommended valuators.
8. The matter came up for hearing on 29th of November, 2011 and the Honorable Justice Rahim set a date for hearing of the application of injuction in this matter on 24th of January, 2012.
9. I, through a telephone conversation informed Mr. John Heath that Mr. Ray Pierre agreed to do the survey and informed the Attorney’s for the Claimant.
10. The Attorney’s At law for the Claimant called us and informed us that they wishes to halt the survey until they find out more about Mr. Ray Pierre.
11. The Attorney’s for the Claimant wrote to us and proposed two names Ellis & Associates, and Hart & Leonard Ltd.
12. The Attorney’s for the defendant employed the services of Ellis and Associates to do the service.
13. Eventhough the negotiations are being pursued the Attorneys for the Claimant filed a application for Summary Judgment on 10th of January, 2012.
14. Joanna Le Quay of Ellis and Associates did a survey on 23rd of January, 2012 and Attorney’s at Law for the Claimant objected to the survey on the basis the survey did not include all the building built by the Claimant particularly the concrete drive way. This concrete drive way was not built by the Claimant as claimed.
15. Since the original spirit of the negotiations were broken down and the settlement might not be forthcoming since the original proposal was changed, the Defendant asks this Hounorable court for an opportunity to defend the Claim.
16. The Defence was already prepared and can be filed at a very short notice. The delay was not deliberate. In the circumstances, I humbly pray that this Court may grant the Order in terms of the Notice of Application.

Sworn by the above named }

AUGUSTUS THOMAS at }

18-20 Pembroke Street, }

Port of Spain, this day of }

March, 2012 }

Before Me

Commissioner of Affidavits.

**TRESPASS**

**Instructing Attorney at Law : AUGUSTUS THOMAS**

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**Port of Spain**

**Bar No:THA2006142**

**Tel. No:**

**Advocate Attorney : CHRISTOPHER GIDLA**

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**RONALD RAMJIT Claimant**

##### AND

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## SHUKUNDAI SAMAROO Defendant

**DRAFT ORDER**

**UPON READING** the Defendant’s Notice of Application dated day of March, 2012 and the affidavit of Augustus Thomas, Attorney at Law for the Defendant sworn to on the day of March, 2012.

**IT IS ORDERED**

1. That the time for the filing of the defence be extended to the / dayof 2012.
2. That the cost in this matter be costs in the cause.

**Dated this day of , 2012**

**Registrar**