

BARBADOS

**IN THE SUPREME COURT OF JUDICATURE
HIGH COURT**

Civil Division

[Unreported]

Suit No: CV 1841 of 2008

IN THE MATTER of the Non-Contentious Probate Rules, 1958

AND IN THE MATTER of the Estate of Christopher Chelston Barker, deceased, a.k.a. Christopher Barker, deceased, late of Harmony Lodge, St. Martins, in the parish of St. Philip

BETWEEN

MARJORIE ANISONIA GRAZETTE

PLAINTIFF

AND

CARSON HEADLEY

CAVEATOR

Before The Honourable Madam Justice Maureen Crane-Scott, Judge of the High Court

[In Chambers]

2011: June 27, 28, 29

2012: February 23.

Mr. Rudolph Greenidge for the Plaintiff and Miss. Vonda Pile for the Defendant

DECISION

[1] **Nature of the Application:** This is an application by Marjorie Anisonia Grazette (hereinafter referred to as “the Applicant”) who by Summons filed on November 12th, 2008, seeks an Order of this Court that a Caveat filed by Carson Headley on June 23rd, 2008 pursuant to the *Supreme Court (Non-Contentious) Probate Rules, 1958* be

removed and that the Will of Christopher Chelston Barker, deceased dated the 28th day of November 2003 be admitted to probate.

- [2] The Summons is opposed by Carson Headley (hereinafter sometimes referred to as “the Caveator”) who entered an Appearance to Warning on August 8th, 2008 and alleged that the Will had not been executed in accordance with the provisions of the *Succession Act, Cap. 249* on the ground that the signature on the Will is not the signature of the said Christopher Barker and/or the said signature was not made by some person by his direction.
- [3] **The Factual Background:** Christopher Chelston Barker, the deceased, was a widower who, following the death of his second wife, Ismay Lee Barker in July 2003, continued to live alone at Harmony Lodge, St. Martins in St. Philip until his death on April 6th, 2008.
- [4] The Applicant is a cousin of the deceased’s second wife. In or about April, 2003, she accepted responsibility for looking after the couple due to the fact that Mrs. Barker’s health was in decline.
- [5] Following Mrs. Barker’s death in July, 2003, the Applicant at Mr. Barker’s request, continued to look after him as well until his death in 2008.
- [6] In this regard, the Applicant would cook, wash, starch, iron and clean, help Mr. Barker with his livestock as well as collect his medication from the Six Roads Pharmacy, St. Philip.
- [7] The Caveator was born in Barbados on January 29th, 1944. He is now 67 years old and claims to be the son and only child of the deceased. He claims that his father left Barbados to reside in England when he was very young and that his father had sent for him to reside with him in England on July 19th, 1960 when he was 16 years old.
- [8] After living in London for many years, the deceased returned to Barbados for good in 1978 when the Caveator was 34 years old. The Caveator still continues to reside in England. He claims that following his father’s return to Barbados, he kept in constant

touch with his father though telephone calls which he made to Barbados mostly on Sundays.

[9] He also claims that his relationship with his father was a very good one and that his father loved and doted on the Caveator's 3 children and had always stated that whatever he owned and possessed would be for them, as his grandchildren.

[10] On November 28th, 2003, the deceased, who was by then, 80 years of age, executed a Will naming the Applicant as his Executrix and the sole beneficiary of his estate.

[11] The validity of the Will and the circumstances of its execution have been called into question and lie at the heart of the current proceedings.

[12] **The Evidence:** At the commencement of the hearing, the Court had before it the following documentary evidence:

- 1) Affidavit of Marjorie Anisonia Grazette filed on November 12th, 2008 with its several exhibits [*"MAG1" to "MAG7"*];
- 2) Affidavit in Response of Carson Headley filed on July 22, 2009;
- 3) Affidavit in Rebuttal of Marjorie Anisonia Grazette filed on October 7th, 2009 with attached exhibit [*"MG1"*];

[13] At the request of the parties, the Court also had sight of the Supreme Court Probate File No: 504 of 2008 containing in particular, the original Will and the Affidavit of one of the attesting witnesses, Miss. Lisa R. Greaves, Attorney-at-law.

[14] Additionally, the Applicant and the Caveator were both cross-examined and gave oral evidence in relation to the several matters deposed to in their respective affidavits.

[15] **The Issues for the Court's Determination:** At the Court's direction, Counsel for the parties filed separate Pre-Trial Memoranda in which they attempted to identify the issues which they said would arise for the Court's determination on the application.

[16] On the one hand, Counsel for the Applicant considered that 2 issues arose as follows:

- (1) Whether the Will had been executed in accordance with the *Succession Act*?, and
- (2) Whether there was evidence of undue influence as alleged by the Caveator?

[17] On the other hand, Counsel for the Caveator considered that the application raised 3 issues for the Court's determination as follows:

- (1) Whether a Testator in a weakened and enfeebled state can give instructions for a Will without medical confirmation of his *corpus mentus* or soundness of mind or memory at the time of the execution?
- (2) Whether a Will made during a testator's period of incapacity was valid?
- (3) Whether as care-giver the Applicant exerted undue influence and took advantage of the deceased's weakened state to induce the making of the Will?

[18] As the Appearance to Warning and Affidavit in Response of the Caveator did not raise an issue of the testator's testamentary capacity, the Court considers that Issues (1) and (2) of the Pre-Trial Memorandum filed by Counsel for the Caveator, Miss. Pile, do not arise for consideration in these proceedings. In any event, as framed, the two issues are too theoretical and in the view of the Court, will only arise for determination if the Court were to find that the evidence which was adduced in this case casts doubt on the testator's testamentary capacity.

[19] Following its own review of the evidence and the various matters raised in the affidavits and in the respective Pre-Trial Memoranda, the Court is satisfied that 2 main issues arise for its determination in these proceedings as follows:

- (1) Was the Will executed in accordance with the *Succession Act*? and
- (2) Was the testator induced by undue pressure exerted upon him by the Applicant to make a Will in her favour which he did not intend to make as alleged?

[19] **Discussion:** The issues for the Court's determination will now be discussed under the following italicized headings.

*Issue 1: Was the Will executed in accordance with the **Succession Act**?*

Section 61(1) of the *Succession Act, Cap. 249* of the Laws of Barbados provides as follows:

“61(1) No will shall be valid unless-

(a) it is in writing;

(b) it is signed at the foot or end thereof by the testator, or by some person in his presence and by his direction;

(c) the signature is made or acknowledged by the testator in the presence of each of two or more witnesses, present in at the same time, and each witness shall attest by his signature the signature of the testator in the presence of the testator, but no form of attestation shall be necessary.”

[20] As the propounder of the Will and the party having the burden of proving due execution, the Applicant relied upon the Affidavit of Attestation of attorney-at-law, Miss. Lisa R. Greaves sworn to on May 16th, 2008 and filed on the Probate File No: 504 of 2008 which was placed before the Court.

- [21] In her said affidavit, attorney-at-law, Miss. Lisa R. Greaves deposed, *inter alia*, to the fact of her having on November 28th, 2003, in the presence of Mr. Jomo C. M. Hope, another attorney-at-law, seen and heard the testator, Christopher Chelston Barker sign and publish his last Will and Testament.
- [22] Miss. Greaves also deposed to the fact of their having together in the testator's presence and in the presence of each other, signed and attested the Will as witnesses to the signing and publishing of the Will.
- [23] Miss. Greaves also identified the signature "C. Barker" appearing at the foot of the said Will as the true handwriting of the testator, the said Christopher Chelston Barker.
- [24] In his Appearance to Warning filed under the *Supreme Court (Non-Contentious) Probate Rules, 1958*, the Caveator alleged that the Will had not been executed in accordance with the provisions of the *Succession Act, Cap. 249*. The Caveator's challenge to the deceased's Will on this ground was two-fold. Firstly, he alleged that the signature on the Will was not the signature of the said Christopher Barker, while secondly, or in the alternative he alleged that the said signature was not made by some person by his direction.
- [25] Despite his challenge to the Will on the ground that it had not been executed in accordance with the provisions of the *Succession Act, Cap. 249*, the Caveator, somewhat surprisingly, adduced no evidence which would have cast even a shadow of doubt on the authenticity of the testator's signature. Indeed, the issue of the testator's signature was not even addressed in his Affidavit in Response filed on July 22, 2009.
- [26] What is more, the Caveator produced no handwriting expert or other evidence to support his allegation that the signature on the Will was not the signature of the said Christopher Barker and/or the said signature was not made by some person by his direction.
- [27] Equally surprising was the fact that Counsel for the Caveator did not seek leave of the Court to summon either of the attesting witnesses to the Will. Nor was the attesting

witness Lisa Greaves cross-examined on the matters deposed to in her affidavit in support of the due execution of the Will.

- [28] At the hearing, Counsel for the Applicant subjected the Caveator to a devastating cross-examination which in the Court's view, thoroughly undermined the Caveator's challenge to the validity of the Will based on non compliance with the formal requirements of the *Succession Act*. In particular, the Caveator admitted that he was not in Barbados on 28th, November, 2003 when the Will was executed and, more specifically, was not present when Mr. Barker signed the Will. He also conceded that he knew Mr. Barker's signature only vaguely and, when asked, could not say if the signature on the Will was his father's.
- [29] In the circumstances, due to the absence of positive and reliable evidence which would have rebutted the presumption of due execution or seriously challenged the positive evidence of the attesting witness, Lisa Greaves filed in support of its due execution, the Court can reach no other conclusion but that the Applicant, as the Will's propounder, has successfully discharged the burden which lies on her of proving that the Will was duly executed.
- [30] In the result, the Court holds that Will of Christopher Chelston Barker, deceased dated the 28th day of November 2003 was duly executed and appears on its face to comply with the formalities set out in the *Succession Act*.
- [31] Issue 2: Was the testator induced by undue influence exerted upon him by the Applicant to make a Will in her favour which he did not intend to make? At the outset, the Court has adverted to the law of undue influence in relation to wills and is satisfied that in a probate court, undue influence means coercion, and involves an allegation that a testator has been coerced by the acts of others into making a will which he really did not intend to make. A gift obtained by undue influence is liable to be set aside upon proof of undue influence. Undue influence means coercion to make a will in particular terms. *Williams on Wills, 7th Edition Volume 1 at p.53; Also Hall v. Hall (1868) 1 P & D, 481 and Wingrove v. Wingrove (1885) 11 P & D. 81.*

[32] In *Hall v. Hall*, (cited above) the principle is stated by Sir. J.P. Wilde in the following terms:

“Persuasion is not unlawful, but pressure of whatever character if so exerted to overpower the volition without convincing the judgment of the testator, will constitute undue influence, though no force is either used or threatened.”

[33] Undue influence may take many forms. At one extreme the testator may be subjected to violence or to imprisonment, while at the other extreme, constant pressure may be exerted on a weak and feeble testator in the last days of his life as to so fatigue his brain that he may be induced, for quietness sake, to give way to the pressure. *Theobalds on Wills, 15th Edition at p.41;*

[34] There must be positive proof of coercion overpowering the volition of the testator and the burden of proving undue influence always rests on the party setting it up. The person who affirms the validity of the will must show that there was no force or coercion depriving the testator of his judgment and free action and that what the testator did was what he desired to do. *Williams on Wills, 7th Edition Volume 1 at p.54;*

[35] The legal burden of proving undue influence rests on the Caveator as the person alleging it. Accordingly, the Caveator in this case, must prove that Christopher Barker’s Will was made as a result of the undue influence exerted on him by the Applicant. Undue influence must be established by positive evidence and it is not sufficient for the Caveator to show that the circumstances attending the execution of the will were consistent with its having been obtained by undue influence or that the Applicant had the power unduly to overbear the testator’s will. *Theobalds on Wills, 15th Edition at p.42.*

[36] Proof of motive and opportunity for the exercise of such influence is required, but the existence of such coupled with the fact that the person having motive and opportunity has benefitted under the will to the exclusion of others is not sufficient proof of undue influence. There must be positive proof of coercion overpowering the volition of the testator. *Williams on Wills, 7th Edition Volume 1 at p.53.*

- [37] Although a challenge to the Will on the ground of undue influence was not raised in the Caveator's Appearance to Warning filed on August 8th, 2008, Carson Headley deposed at paragraph 18 of his Affidavit in Response filed on July 22, 2009, that it was his opinion that *"the Applicant exerted undue influence upon [his] father."*
- [38] The Caveator also alleged that on November 16th, 2003 the deceased had been admitted to hospital suffering with congestive cardiac failure and elevated blood pressure and had been discharged on November 22nd, 2003, having spent 7 days in the hospital under observation and treatment.
- [39] He further alleged that on November 28th, 2003, six (6) days following Christopher Barker's discharge from the hospital, *"...the Applicant took [him] in a weakened state to an Attorney-at-law whom she had contacted to have a Will prepared."*
- [40] He also deposed that on the day when the Will was made, his father had only some 6 days previously been discharged from hospital and was, he alleged, *"in a weakened state both physically and mentally."*
- [41] At paragraphs 6 to 12 of his Affidavit, the Caveator briefly outlined a number of occasions on which his father had allegedly complained to him about the Applicant trying to kill him, about his having to speak in low tones because she was present and about her wanting to move into the house to live with him. These matters, he said, had led him to form the opinion that his father was afraid of the Applicant as she was controlling his father's life and bringing undue influence to bear upon him.
- [42] During the course of his evidence-in-chief at the trial, the Caveator further testified that in one of his conversations with his father which had taken place in 2003 after his father's wife had died, his father had told him that *"he was under duress and was being bullied in his own house and that the person involved was trying to dictate his life and he was not happy"*.
- [43] The Caveator was then subjected to searching cross-examination by Counsel for the Applicant, Mr. Greenidge, in relation to each of these these matters, which he insisted

were all true. Asked why, in the face of his father's alleged complaints to him about the Applicant's controlling ways, he had not come to Barbados to rescue his father, the Caveator quite astonishingly, said that he was working, had a family and had medical problems of his own that prevented his travelling to Barbados at the time.

- [44] The Caveator was also cross-examined about his allegation in paragraph 17 of his Affidavit that the Applicant had taken the deceased in his weakened condition to an attorney-at-law whom she had contacted to have a Will prepared. He admitted that he was not there, but stated that given the fact of his father's discharge from hospital on the 22nd November, 2003, there could only be one conclusion. According to him, "*I visualized it myself.*"
- [45] Pressed by Mr. Greenidge as to how he knew that the Applicant had taken the deceased to an attorney-at-law, the Caveator admitted that he had come to a conclusion. In answer to a further question, he later testified that there was a possibility that the Applicant had taken the deceased to the attorney-at-law and that the Will had been prepared at her request. It was, he said, a suggestion.
- [46] In her Affidavit in Rebuttal filed on October 7th, 2009, the Applicant denied having accompanied the testator when he made his Will or that she had contacted the lawyer who prepared the Will. She further deposed that she had never met the Attorney-at-law who prepared the Will.
- [47] Under cross-examination, the Applicant stated that she did not know who had taken Mr. Barker to have his Will prepared and said that for sure she had not done so. She stated that she knew nothing about the preparation of Mr. Barker's Will and that the first time she became aware about any Will was in December 2005 when, according to her, Mr. Barker had spoken to her and told her who his attorney-at-law was and that he had left his property to her. She told the Court that she had then questioned Mr. Barker about certain things but he said that he did not want to talk about it and that he had done what he wanted to do and there was nothing she could do about it.

- [48] The Applicant confirmed that on the same day in 2005 when she had first been told about the Will, Mr. Barker had given her the letter “*MG 1*” mentioned in paragraphs 25 and 26 of her affidavit of October 7th, 2009 which had been written to him by the Caveator. Mr. Barker, she said, had warned her not to dispose of the letter and that she should not be surprised if the Caveator attempted to challenge her right to inherit the property in accordance with his Will. According to the Applicant, following her conversation with Mr. Barker, she had kept the letter in her dressing table drawer.
- [49] Cross-examined concerning Mr. Barker’s physical condition during the week following his discharge from hospital on November 22, 2003, the Applicant stated that Mr. Barker was very active. She also stated that despite the Applicant having offered to accompany him home from the hospital, Mr. Barker had insisted on taking a taxi from the hospital by himself on the day of his discharge.
- [50] According to the Applicant, the day immediately following his discharge, Mr. Barker was active and was going about feeding his stock as usual. In fact, he was so active following his discharge from hospital, she said, that within that week he was going about feeding his livestock and driving his car as usual. The Applicant stated that she would cook Mr. Barker’s meals for him every day. If she had to work, Mr. Barker would come and collect them from her at her house. If she was off work, she would take his meals to him.
- [51] The Applicant testified that Mr. Barker was so active that although she had expressly warned him not to buy Red Pole cows [*“which would kill him fast”*] he still went and bought the Red Poles. Furthermore, up to the time of his death in April, 2008, she said, Mr. Barker used to drive his car all around and would go to the polyclinic on his own.
- [52] Asked whether she ever accompanied him to the polyclinic, the Applicant explained that Mr. Barker did not want her to go with him because he did not want persons to say he was an old man who could not help himself. In her words, *“he wanted to remain independent and I carried out his wish.”*
- [53] Questioned as to whether Mr. Barker had ever received visitors at his house, the Applicant explained that Mr. Barker had his own mind and that if he wanted visitors he

would let them visit. She explained that sometimes his sister-in-law would visit or would call, but that apart from the sister-in-law, no one else came to visit. She explained that it was Mr. Barker's decision and she had no intention of making decisions or running his life.

[54] During her cross-examination of the Applicant, Counsel for the Caveator suggested that the Applicant had made sure that Mr. Barker was dependent on her during his illness and after his discharge and that she had kept him secluded in the house away from his friends. However, the suggestion was convincingly explained by the Applicant who reiterated that, after his wife died Mr. Barker had made her promise not to give up on him. He asked her to help him with the livestock, with cleaning, washing and starching and ironing because he liked the way she had looked after his late wife.

[55] In summary, the Applicant's testimony painted a picture of a strong-willed man who had a mind of his own who always made his own decisions. According to the Applicant, Mr. Barker used to drive all about and go wherever he wanted to go. He would, she said, go all in Six Roads, even in St. John and when he killed pigs, he would distribute the meat and all the while, she was never anywhere around.

[56] In the view of the Court, the Caveator has failed to discharge the burden which lies on him as the person alleging undue influence in this case that Mr. Barker was coerced by the Applicant who exerted such pressure upon him that he gave way and executed a will in her favour which he would not otherwise have made.

[57] The Caveator found himself at somewhat of a disadvantage in prosecuting his challenge to the Will based on alleged undue influence, largely due to the fact that he lived overseas for much of the time. He was not in Barbados either before or at the time the said Will was executed. He was therefore was not in a position to speak from his own personal knowledge and observation or to give direct evidence concerning the undue influence which he alleged was exerted on his father by the Applicant.

[58] The Court is of the view that examined individually as well as collectively, none of the complaints against the Applicant allegedly reported to him by his father during the course

of their telephone conversations and set out between paragraphs 9 to 12 of the Caveator's Affidavit is capable of amounting to the positive proof of coercion which is required to establish undue influence.

[59] The dates when the alleged incidents occurred were not stated in the Caveator's Affidavit and so it was unclear to the Court for example, whether the testator had thrown away his food in fear of the Applicant before or after he made the Will. The complaints were also so vaguely stated that they did not provide the necessary detail to permit the Court to make sense of them or to understand the nature of the coercion or influence which, the Caveator says, was being applied to the testator by the Applicant and, more importantly, how exactly this was achieved.

[60] The Court was unable to draw an inference of coercion or influence exerted upon the testator by the Applicant from the mere fact that the testator had allegedly thrown away his food on a single occasion in the belief that the Applicant was trying to kill him. Additionally, when the alleged incident occurred was unknown and again, no surrounding information about the conduct of the Applicant towards the testator was supplied from which the Court could make a connection between that incident and the making of a will in particular terms.

[61] Once again, the Court was also unable to draw an inference of coercion or undue influence from the bald fact that the Applicant had allegedly offered to move into the testator's house, following his wife's death.

[62] The absence of hard evidence of undue influence or coercion exerted on the testator by the Applicant in this case was underscored when, under cross-examination by Mr. Greenidge, the Caveator admitted to the Court that he had concluded that it was the Applicant who had taken the testator to have the Will prepared from the fact that he was aware that his father had only 6 days previously been discharged from hospital and as he "*visualized it*", was in a weakened state both physically and mentally.

[63] In the view of the Court, the Caveator's evidence regarding undue influence exerted on the testator in this case was completely speculative and did not rise to the standard of

positive evidence required to arouse the Court's suspicion that the testator's volition was overborne as a result of undue influence exerted upon the testator by the Applicant.

[64] In short, the Court is satisfied that the Caveator has failed to discharge the burden which lies on him as a party alleging undue influence in these proceedings, to prove that Mr. Barker was coerced by the Applicant who exerted such pressure upon him that he gave way and executed a will in her favour which he would not otherwise have made.

[65] The law governing this matter is clearly set out in the judgment of Lindley L.J. in *Tyrell v. Painton [1894] P.151* who, after adopting the rules laid down by Parker, B in *Barry v. Butlin 12 E.R. 1089* stated the law in the following terms:

“These rules are two: the first that the onus probandi lies in every case upon the party propounding a will, and he must satisfy the conscience of the Court that the instrument so propounded is the last will of a free and capable testator. The second is, that if a party writes or prepares a will under which he takes a benefit, that is a circumstance that ought generally to excite the suspicion of the Court, and call upon it to be vigilant and jealous in examining the evidence in support of the instrument, in favour of which it ought not to produce unless the suspicion is removed, and it is judicially satisfied that the paper propounded does express the true will of the deceased.”

[66] Lindley L.J. further held that the rule in *Barry v. Butlin* is not confined to cases where a will is prepared by or on the instructions of the person taking large benefits under it, but extends to all cases in which circumstances exist which excite the suspicion of the Court. He put the matter thus:

“...wherever such circumstances exist and whatever their nature may be, it is for those who propound the will to remove such suspicion, and to prove affirmatively that the testator knew and approved of the contents of the document, and it is only where this is done that the onus is thrown on those who oppose the will to prove

fraud or undue influence, or whatever else they rely on to displace the case made for proving the will.”

- [67] Against the foregoing legal principles, the question for the Court’s determination is this: Are there circumstances surrounding the preparation and/or the execution of the late Mr. Barker’s Will which have so excited the Court’s suspicion as to cast the burden on the Applicant to establish that the instrument so propounded is the last will of a free and capable testator?
- [68] Counsel for the Applicant, Mr. Greenidge, submitted that there was no cogent evidence to support the allegations made by the Caveator. He noted that the testator’s Will was dated 28th November 2003 and that he died 6th April 2008 and therefore if he had the intention of changing his Will, he would have had sufficient opportunity to do so. Counsel placed great weight on the fact that the Will was witnessed by two attorneys and argued that this strengthened the presumption of validity in the testator’s favour.
- [69] Counsel referred to *Winter v Crichton (1991) NSWLR 116* and *Wingrove v Wingrove (1885) 11 P & D 81* when pointing out that the burden of establishing undue influence lies on he who asserts it. It was argued, by Mr. Greenidge, that the Caveator failed to discharge this burden as there was no evidence that the Applicant destroyed the free and voluntary will of the testator.
- [70] Counsel for the Caveator, Miss Pile, submitted that the Applicant exercised covert acts of undue influence and made reference to the testator not receiving medication following his discharge from the Queen Elizabeth Hospital. She submitted that taking into account the testator’s recent discharge from the hospital and his age coupled with his physical illness and grief at his wife’s death, he was in no position physically to execute a Will.
- [71] She relied on *Baudains v Richardson [1906] AC 169* in support. Further, Counsel argued that it was of significance that the Will was executed a mere 6 days after his discharge

from hospital. She also urged the Court to accept that the testator was incapable, as a result of his illness, to have a sound disposing mind so as to execute a valid Will.

[72] Miss. Pile cited *Battan Singh v Amirchand [1948] AC 161* and submitted that a Will executed during incapacity does not become valid by the testator's subsequent recovery. She also distinguished *Winter v Crichton* and submitted that, unlike Mr. Barker, the testator in that case was a healthy individual. Counsel also purported to shift the burden of proof to the Applicant by contending that a diseased state of mind, once established, is presumed to continue and the burden of showing restored health falls on those who assert it. *Halsbury's Laws of England 4th Edition volume 17 para. 891.*

[73] In rebuttal, Mr. Greenidge took issue with Ms. Pile's assertion that the testator lacked a sound disposing mind and countered that there was no evidence which proved that the testator's heart condition affected or diseased his mind.

[74] In my judgment, there is nothing in the evidence of the Caveator which has displaced the usual presumption of validity which arises from the due execution of a Will regular on its face. The Court is satisfied that the testator had a heart condition. There is no evidence that he suffered from a diseased state of mind or that his heart condition had affected his mind. Nor is there any evidence before this Court which has raised any suspicion about the circumstances in which the will was executed or that the Applicant coerced or exerted undue influence on the testator to get him to make a Will which he would not ordinarily have made.

[75] **Disposal and Order:** In the circumstances, the Court holds that the Will propounded for probate in this case is the true Will of the late Christopher Barker which was duly executed according to law and signed by him. The order of the Court is that the Will in question be admitted to probate.

Maureen Crane-Scott

Judge of the High Court

