

**NASSIM A. NASSIM**, Petitioner, v. **HIS HONOUR C. ALEXANDER ZOE**,  
Assigned Circuit Judge, Sixth Judicial Circuit, Montserrat County, Sitting in its  
June 1992 Term, and **THE ABI JAOUDI & AZAR TRADING  
CORPORATION**, By and thru its President, **ELIE J. ABI JAOUDI**,  
Respondents.

APPEAL FROM THE RULING OF THE JUSTICE IN CHAMBERS DENYING  
THE PETITION FOR A WRIT OF PROHIBITION.

Heard: February 18, 1993. Decided: February 26, 1993.

1. Prohibition is a special proceedings to obtain a writ ordering the respondent to refrain from further pursuing a judicial action or proceeding as specified therein.
2. Prohibition is that process by which a superior court prevents inferior courts, tribunals, officers, or persons from usurping or exercising a jurisdiction which they have not been vested by law.
3. Prohibition is a writ directed to the judge and parties to a suit in any inferior court, commanding them to cease from prosecuting the suit on the suggestion that either the original action, or some collateral matter arising therein does not belong to that jurisdiction, but to the cognizance of some other court. It is also a writ issuing out of the Supreme Court for the purpose of keeping inferior courts or tribunals, corporations, officers and individuals, vested by law with judicial or quasi judicial authority from exceeding their jurisdiction.
4. Where title is not in issue, a special proceeding to recover possession of real property may be maintained in a circuit court or a court of the justice of the peace or a magistrate. The court of a justice of the peace or magistrate shall have jurisdiction only of cases in which the amount of the judgment demanded does not exceed three hundred dollars.

The gravamen of this petition is that the petitioner was employed by co-respondent under a written contract for a term of three years. Following the expiration of the contract, the petitioner filed a complaint of unfair labor practices at the Ministry of Labour. While the action was pending undetermined, the corespondent commenced an action of summary proceeding to recover possession of real property to evict the petitioner from its premises. Following a judgment in co-respondent's favor, the petitioner filed a writ of prohibition before the Justice in Chambers to prevent the co-respondent judge from evicting him from the premises until the labor action shall have been determined.

The Supreme Court stated that prohibition is a process by which a superior court prevents inferior courts, tribunals, officers, or persons from usurping or exceeding its jurisdiction. The Court held that the petitioner failed to indicate that the co-respondent judge had no jurisdiction to hear the summary proceedings, or give any legal ground to warrant granting of the writ of prohibition. Accordingly, the petition was *denied*.

*Wynston O. Henries* appeared for petitioner. *H Varney G. Sherman* and *David D. Kpomakpor* appeared for respondents.

MR. JUSTICE MORRIS delivered the opinion of the Court

At the call of this case for final determination, the petitioner was represented by Counsellor Wynston O. Henries of the Henries Law Firm, while the respondents were represented by the Sherman & Sherman Law Firm in persons of Counsellors Varney Sherman and David D. Kpomakpor.

As concluded from the history of the case, the petitioner, Nassim A. Nassim, was an employee of the co-respondent, the Abi Jaoudi & Azar Trading Corporation. After the expiration of the three-year employment contract, the co-respondent wrote a letter to the petitioner requesting him to collect his redundancy pay. Instead of collecting his redundancy pay, the petitioner filed a complaint with the Ministry of Labour for unfair labor practices. While this case was being pursued, the co-respondent/appellee instituted an action of summary proceedings to recover possession of real property in the Sixth Judicial Circuit Court then presided over by His Honour M. Wilkins Wright. After the hearing of the case, which was determined in respondent's favor, petitioner took recourse to the office of prohibition to prevent the trial judge from evicting him from the premises which was assigned to him by his employer because, according to him, his complaint filed with the Ministry of Labor was still pending undetermined.

The main question is whether prohibition will lie? This question begs an answer to the further question as to what is prohibition? Prohibition is a special proceeding to obtain a writ ordering the respondent to refrain from further pursuing a judicial action or proceeding as specified therein. Civil Procedure Law, Rev. Code 1: 16.21(3). Prohibition or the writ of prohibition is that process by which a superior court prevents inferior courts, tribunals, officers, or persons from usurping or exercising a jurisdiction with which they have not been vested by law. 73 C.J.S., *Prohibition*, § 1. Prohibition is further defined as a writ directed to the judge and parties to a suit in

any inferior court, commanding them to cease from the prosecution thereof, on a suggestion that either the cause originally, or some collateral matter arising therein does not belong to that jurisdiction, but to the cognizance of some other court. It is a writ issuing out of the Supreme Court for the purpose of keeping inferior courts or tribunals, corporations, officers, and individuals, vested by law with judicial or quasi-judicial authority from going beyond their jurisdiction. 73 C.J.S., *Prohibition*, page 9, fn. 2&3.

The petitioner had not indicated that the co-respondent judge has no jurisdiction to hear summary proceedings to recover possession of real property nor has he given any legal ground to prompt this court to grant the writ of prohibition as prayed for. Under our statute covering summary proceedings, it is provided thus:

"Where title is not in issue, a special proceeding to recover possession of real property may be maintained in a Circuit Court or a court of a justice of the peace or a magistrate. The court of a justice of the peace or magistrate shall have jurisdiction only of cases in which the amount of the judgment demanded does not exceed three hundred dollars". Civil Procedure Law, Rev. Code 1:62.21, page 264, under the caption *Summary Proceeding to Recover Possession of Real Property*.

The action for which this prohibition is filed is summary proceedings to recover possession of real property which can either be filed in the magistrate or justice of the peace courts or in a circuit court.

Therefore, we are at a loss regarding the purpose of filing this prohibition proceeding; there being no legal reason to us. For reliance, see *Gaiguae v. Jallah*, 20 LLR 163 (1971); *Alraine (Liberia) Ltd. v. Koroma*, 22 LLR 308 (1973); *Nasser v. Smith*, 26 LLR 115 (1977); *Lamco J. V. Operating Company v. Flomo and Wollie*, 27 LLR 52 (1978).

In view of the foregoing, it is our opinion that the ruling of the Justice in Chambers be and is hereby confirmed and affirmed and the petition is denied with costs against the petitioner. And it is so ordered.

*Petition denied*