

**SAMUEL T. A. RICHARDS**, Petitioner, v. **PHILIP C. PARKER, Sr.**,  
Commissioner of the Commonwealth District of Monrovia, by C. ABAYOMI  
CASSELL, Attorney General, and **S. RAYMOND HORACE**, Solicitor General,  
**HENRY B. DUNCAN**, Secretary of Public Works and Utilities, and His Honor **J.**  
**DOS SEN RICHARDS**, Resident Judge of the Sixth Judicial Circuit, Montserrado  
County, Respondents.

APPEAL FROM THE CHAMBERS OF MR. JUSTICE SHANNON.

Argued November 30, 1953. Decided January 22, 1954.

Prohibition will not lie where it is not shown that the lower court is exceeding its jurisdiction.

A bill in equity for cancellation of a lease agreement was filed by the Republic of Liberia. Petitioner herein unsuccessfully petitioned Mr. Justice Shannon in Chambers for a writ of prohibition. On application to this Court *en banc*, *petition denied*.

*Samuel T. A. Richards*, petitioner, *pro se*. *The Solicitor General* for respondents.

MR. JUSTICE BARCLAY delivered the opinion of the Court.

S. T. A. Richards, petitioner herein, entered into a lease agreement with the Commissioner of the Commonwealth District of Monrovia for a small isolated tract of land, or rather little shop, located at the corner of Water and Randall Streets in the Commonwealth District of Monrovia, for a period of thirty years certain, commencing July 1, 1951. The agreement was probated and registered. He occupied and erected a small concrete store thereupon, but, on May 26, 1952, he received a letter from the Secretary of Public Works and Utilities requesting him to vacate the premises since the building would have to be demolished for widening of the street because of increased traffic. Petitioner replied, pointing out the inconsistency and impracticability of conforming with such a sudden and surprising demand. Thereafter the Solicitor General of the Republic filed a bill in equity for the cancellation of petitioner's lease agreement in the Circuit Court of the Sixth Judicial Circuit, Montserrado County at its September, 1952, term. Petitioner, then respondent, was required to file his formal appearance on July 14, 1952; but before the time allowed for the filing of the aforesaid appearance had expired, petitioner, respondent below, learned that a further action of injunction was being instituted against him in order to restrain and prevent his entering in and upon his store premises, and that other suits

were being planned. Petitioner then applied to Mr. Justice Shannon in chambers for a writ of prohibition.

So far as we know, and we have not been contradicted by petitioner, the only action filed in the court below is the bill in equity for cancellation which has not been adjudicated, since the merits thereof are not before us and are not embraced in this opinion.

Mr. Justice Shannon denied the petition on the ground that prohibition cannot lie to restrain a lower court from hearing and deciding a matter unless it is shown that said court either is without jurisdiction or is acting in excess and abuse of its jurisdiction. He declared :

"In this case, want of jurisdiction, or its excess or abuse, has not been made an issue and consequently it must be assumed and that correctly, that said court has jurisdiction and therefore should not be disturbed. 2 B.L.D. "Prohibition" ; 50 C.J. 663-67, *Prohibition*, § 20; 32 Cyc. 604, *Prohibition*, § c; 22 R.C.L. 19-22, *Prohibition*, §§ 18-20; 42 Am. Jur. 156, *Prohibition*, §§ 18-20."

In their second count respondents contend that, under the circumstances, and in law, petitioner is without right to institute these proceedings until and unless he can show that he has applied, without avail, to the lower court for relief from the grievances complained of in his petition, and that, since this was not done, as the petition and other records will show, the petition has no merit. 42 Am. Jur. 172, *Prohibition*, § 38; 22 R.C.L. 27, *Prohibition*, § 27.

On perusal of the petition we find that, in Count "3" thereof, petitioner states the grievance upon which he applies for the issuance of a writ of prohibition. It reads as follows :

"That despite the instruction contained in the President's letter (Exhibit `A-2') , granting sixty days, as communicated by the Secretary of Public Works and Utilities ; and notwithstanding that S. Raymond Horace Solicitor General of Liberia knew the facts of these communications, the Secretary of Public Works and Utilities ignored same, and, apparently with a view to harassing, embarrassing, distressing, inconveniencing, impeding and defeating petitioner's chances of making a fair and honest living, and thus subjecting him to serious damage and loss, contrary to the sound principles of law and equity, has maliciously planned a mutiplicity of suits against your humble petitioner, and, in the furtherance of said mischievous plan, has already

instituted the first of said actions, namely a bill in equity for cancellation of agreement; and your humble petitioner further understands that said respondents intend and are about to institute injunction proceedings and thereto a case of ejection against petitioner. And all of which actions are designed ostensibly for the purpose of distressing, hampering, impeding, defeating and ultimately destroying petitioner's commercial activities, thereby rendering it impracticable for him to carry on fair trade and thus make an honest livelihood as a citizen of this Republic in common with other citizens and in the free exercise of his organic rights."

Respondents denied that they were planning to harass, embarrass or distress petitioner with the suit and action complained of, and also denied that the petition alleged facts sufficient to warrant granting the writ.

There is no attack herein upon the jurisdiction of the court in any way, manner or form; nor does the petition charge that the court was proceeding, or had attempted to proceed irregularly. *Parker v. Worrell*, 2 L.L.R. 525, 526 (1925) ; *Gittens v. Yanfor*, 10 L.L.R. 176 (1949). We may add, in agreement with what has been expressed by Mr. Justice Shannon in his opinion, that all the issues submitted by the petitioner are such as could be considered in connection with the issue of the cancellation of lease agreement or in injunction proceedings, if properly raised.

With reference to the question of a multiplicity of suits, as raised by petitioner, we are of the opinion that, where the court has jurisdiction of the subject matter, the fact that the relator may be subject to a multitude of prosecutions is not a ground for a writ of prohibition. 22 R.C.L. 24, 25, *Prohibition*, § 23 ; Annot., "Prohibition to prevent numerous unfounded prosecutions for alleged violation of statute or ordinance." 37 L.R.A. (N.S.) 448 (1912).

We are therefore in full accord with the opinion of Mr. Justice Shannon, and see no reason why same should be in any way disturbed. The petition is denied with costs against petitioner; and it is so ordered.

*Petition denied.*