

THE EASTERN CARIBBEAN SUPREME COURT

SAINT LUCIA

**IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

CLAIM NO. SLUHCV2026/0371

BETWEEN:

ADRIAN MASON

Applicant

And

[1] BERTHEIA MASON

[2] RAMBALLY'S FUNERAL PARLOUR

Respondents

Before the Honourable Mr. Justice Alvin Shiva Pariagsingh

Appearances:

Mrs. Brender Portland for the Applicant

Mr. Lorenzo Francis for the First Respondent

Mr. Clarence Rambally for the Second Respondent

2026: October 1 – Hearing
 October 2 – Decision

JUDGMENT

Application for Injunction to Stop Cremation

Probate- executors - funeral arrangement - burial and cremation - disposal of human remains - deceased's wishes - family disputes - inherent jurisdiction - limited grant of administration - injunctions.

“Sibling relationship outlast marriages, survive death of parents, resurface after quarrels that would sink any friendship. They flourish in a thousand incarnations of closeness and distance, warmth, loyalty and distrust.” – Ercia E. Goode.

INTRODUCTION

- [1] **PARIAGSINGH, J** : - This is a sad case. It concerns a disagreement between siblings over the disposition of their mother's remains. This dispute is not fuelled by hate; it is fuelled by love. That, in many respects, makes the dispute even more difficult, because each sibling is firmly persuaded that he or she is acting in accordance with their mother's wishes. As I indicated at the beginning of the hearing, it is unfortunate that the parties were unable to resolve this deeply personal family dispute. It now falls to this Court to determine the arrangements for the final disposition of the mother of the Applicant and the First Respondent.
- [2] The changing nature of society has resulted in disputes concerning funeral arrangements, and in particular whether a deceased person should be buried or cremated, becoming increasingly common. Such disputes are especially difficult where, during his or her lifetime, the deceased did not leave clear and unequivocal instructions as to the intended method of final disposition.
- [3] This judgment follows the hearing of an application for an interim injunction filed on 29th September 2026 concerning the manner in which the body of Bernice Isaac Mason, also known as Bernice Isaac or Bernice Melcia Isaac Mason, who died on 5th September 2026 ("the Deceased"), should be disposed of. The Applicant and the First Respondent are two of the Deceased's surviving children. The First Respondent is the executrix named in the Deceased's Last Will and Testament.
- [4] Both parties maintain that they are acting in accordance with the Deceased's wishes. The Applicant's position is that the Deceased wished to be buried. The First Respondent says that she spent many years caring for the Deceased, was familiar with her wishes and preferences and that the Deceased had entrusted her with the responsibility of making the necessary arrangements and had given her permission to do what she considered best.
- [5] Regrettably, the parties have been unable to agree upon the manner in which the Deceased's body should be disposed of. The Court must therefore determine that issue.

APPLICATION FOR INJUNCTIVE RELIEF

[6] By ex parte Application filed on 29th September 2026, the Applicant sought the following orders:

- 1) That the First Respondent be restrained, whether by herself, her servants and/or agents, from taking any action with respect to the cremation of the body of the Deceased until final judgment on this claim, including but not limited to:
 - a) cremating the body of the Deceased; and
 - b) giving any instructions concerning cremation and/or making any other decisions concerning the body of the Deceased to the Second Respondent.
- 2) That the Applicant be given a limited grant of letters of administration solely and exclusively for the purpose of arranging and carrying out the final disposition of the Deceased.
- 3) That the authority conferred by the limited grant extend only to such acts as are reasonably necessary to take possession of the body for the purposes of burial.
- 4) No order as to costs.
- 5) Such further or other order as the Court considers appropriate.

APPLICANT'S EVIDENCE

Affidavit of Adrian Mason filed on 29th September 2026.

[7] Adrian Mason ("the Applicant") is a son of the Deceased. At the time of filing his application, he was unaware that the Deceased had left a Last Will and Testament. The Deceased had four children: Adrian Mason, Perry Mason (deceased), Jeannette Mason and Bertheia Mason, the First Respondent. The body of the Deceased is presently in the custody of Rambally's Funeral Parlour, the Second Respondent.

[8] The Applicant stated that he learned of the proposed cremation from a funeral flyer and, upon doing so, immediately contacted the First Respondent and "begged and pleaded" with her not to cremate their mother because, in his view, cremation was not something their mother would have wanted. He subsequently communicated that position to the First Respondent by letter through Counsel.

[9] It was the Applicant's evidence that cremation is inconsistent with the family's tradition. His late brother was buried in a family tomb at Choc Cemetery alongside the Deceased's parents. The Deceased's sister, Jean, with whom she shared a close relationship, and her brother, George, were also buried in another family tomb at Choc Cemetery. The Applicant exhibited correspondence from the Office of the Castries Constituency Council¹ which, he says, confirms that one space remains available in that family tomb. He also stated that, prior to Jean's death, she informed him that advance payments had been made in or around 2020 or 2021 towards burial arrangements for herself and the Deceased.

[10] The Applicant also relied upon the Deceased's religious affiliation. He stated that she was an elder and a dedicated member of the Seventh-day Adventist Church. His evidence was that cremation was not customary within her religious practice, although it was permitted where that was the wish of the family. He also relied upon information said to have been communicated to him by an elder of the church to the effect that the Deceased had expressed a wish to be buried rather than cremated.

[11] According to the funeral arrangements, cremation was scheduled to take place on 5th October 2026. The Applicant stated that the prospect of cremating the Deceased had caused considerable grief, emotional distress and anxiety to him and to other surviving family members, including some of the Deceased's elderly siblings.

[12] The Applicant gave the usual undertaking in damages. He contended, however, that damages would not constitute an adequate remedy because the consequences of cremation would be irreversible and the resulting emotional distress could not adequately be compensated by an award of money.

Affidavit in reply of Adrian Mason filed on 1st October 2026

[13] The Applicant explained that he and his sister Jeannette were not resident in Saint Lucia and that it was therefore reasonable that the First Respondent, who was resident here, would have had greater physical responsibility for the Deceased. He nevertheless

¹ Exhibit AM2

disputed the First Respondent's contention that she had cared for their mother for approximately fifteen years. He stated that he paid for caregivers until November 2020, when the First Respondent moved back into the Deceased's home, and that he continued to support the care arrangements thereafter until about April 2021.

[14] The Applicant further stated that granting the relief sought would not require the funeral service to be postponed because the Deceased could be buried on the date already scheduled for the funeral. He also stated that no material additional expense would be incurred because arrangements relating to the tomb and funeral had already been paid for.

Affidavit of Keith Isaac filed on 29th September 2026

[15] Keith Isaac ("Mr Isaac") is one of the Deceased's brothers and resides in the United States. Following the Deceased's death, he made enquiries of the Applicant concerning the funeral arrangements and was informed that the intention was to cremate the Deceased. Although he acknowledged that the decision concerning the funeral lay with the Deceased's children, he stated that the Deceased never wished to be cremated. He said that he was very close to the Deceased, had lived with her for a period, and that cremation was not customary within their family. He further stated that the Deceased had made preparations for burial and that space had been reserved in a tomb for her to be buried alongside her sister Jean, with whom she shared a close relationship.

[16] Mr Isaac expressed the wish that his nieces and nephew could agree upon the manner of disposal of the Deceased's body. He supported the Applicant's application for burial and expressed the hope that the Court would intervene to prevent cremation or otherwise encourage the family to reach a consensus consistent with what he regarded as the family's tradition. He also stated that other members of the family were distressed at the prospect of the Deceased being cremated.

FIRST RESPONDENT'S CASE

Affidavit of Bertheia Mason filed on 1st October 2026

[17] The Application for injunctive relief was opposed by Bertheia Mason ("the First Respondent"). The First Respondent stated that the Deceased left a Last Will and Testament dated 10th December 2020² by which she appointed the First Respondent as executrix of her estate. She also stated that, during the Deceased's lifetime, she had been appointed curator pursuant to an order of the Court³ and, in that capacity, had been entrusted with responsibility for her mother's affairs and welfare.

[18] Independently of her formal position as curator, the First Respondent stated that she was the child who had assumed principal responsibility for the Deceased's care for approximately fifteen years. This included attending to her medical care, appointments, personal needs, household requirements and general welfare. She said that she was therefore the person most familiar with her mother's wishes, preferences and views concerning her affairs and, ultimately, the disposition of her remains.

[19] According to the First Respondent, the Deceased spoke to her during her lifetime about what should occur following her death. She said that the Deceased indicated that she trusted her to make the necessary arrangements and gave her permission to do what she considered best in the circumstances. The First Respondent understood this as entrusting her to make appropriate funeral and disposition arrangements having regard to the Deceased's wishes. She noted that the Deceased had specifically chosen the colours for her funeral as well as certain hymns and readings. The First Respondent denied acting contrary to the Deceased's wishes or attempting to prevent her siblings from mourning or participating in the funeral.

[20] Following the Deceased's death, arrangements were made with Rambally's Funeral Parlour for cremation on 5th October 2026. The First Respondent said that other members of the immediate family had either supported cremation or indicated that they

² Exhibit A

³ Exhibit B

would support whatever arrangement was ultimately established to be consistent with the Deceased's wishes. She also relied upon section 34 of the Burial and Cremation Act, which she says recognises an executor or administrator of a deceased person's estate as a person entitled to request cremation.

[21] The First Respondent also addressed the proposed burial in the family tomb. She stated that enquiries made by herself and her sister indicated that the tomb already contained the remains of three persons and would have to be extended to accommodate the Deceased. She said that this was an additional practical consideration and that, in the circumstances, cremation was regarded as a practical and dignified method of disposing of the Deceased's remains consistently with the responsibility entrusted to her.

[22] Lastly, the First Respondent challenged the reliance placed by the Applicant upon statements or evidence from their uncles, Keith Isaac and Patrick Isaac. She referred to their ages and, in relation to Patrick Isaac, his alleged medical condition, and expressed concern about the extent to which their views should be relied upon in determining the present dispute.

EVIDENCE OF THE SECOND RESPONDENT

[23] Affidavit evidence was also filed on behalf of the Second Respondent. The affidavit was sworn by Zaine Kira Prospere ("Ms Prospere"), a secretary employed by Rambally's Funeral Parlour. Ms Prospere stated that the First Respondent entrusted the Deceased's body to the Second Respondent on 5th September 2026. Of particular relevance is her evidence concerning arrangements made several years before the Deceased's death. On 23rd February 2021, the sum of EC\$9,400.00 was paid in respect of funeral expenses for Jean Isaac and the Deceased, both of whom were alive at the time. According to Ms Prospere, the First Respondent stated that the payment was for their burial and selected two flat-top mahogany coffins at a cost of EC\$4,700.00 each.

[24] On 3rd August 2022, the First Respondent requested a refund of EC\$1,000.00 from the original payment. That sum was refunded, leaving a balance of EC\$8,400.00. Following

the refund, the First Respondent requested that the remaining balance be retained and applied towards the burial of the Deceased.

[25] Approximately one week after the Deceased's death, the First Respondent approached the Second Respondent concerning the funeral arrangements. On 18th September 2026, the First Respondent requested cremation instead of the burial which had previously been agreed. A total cost of EC\$6,887.91 was quoted, inclusive of cremation and death-announcement expenses, with the remaining balance to be refunded to the First Respondent.

[26] Ms Prospere also stated that, on 7th September 2026, the Applicant telephoned the Second Respondent, identified himself as the Deceased's son and indicated that he objected to his mother being cremated instead of buried.

LAW AND ANALYSIS

[27] Two related but distinct questions arise. The first concerns who has the legal authority and responsibility to take possession of the Deceased's body and arrange for its proper disposition. The second is whether, notwithstanding that ordinary entitlement, the Court should exercise its jurisdiction to give directions as to the manner in which the Deceased's body should be disposed of.

[28] A number of principles must be borne in mind. The starting point is that there is no property in a deceased person's body: **R v Sharpe**⁴; **Williams v Williams**⁵.

[29] The law is, however, clear as to the right and duty of the deceased's personal representatives to take possession of the body for the purposes of arranging its proper disposal. In **Buchanan v Milton**⁶, Baroness Hale said:

“There is no right of ownership in a dead body. However, there is a duty at common law to arrange for its proper disposal. This duty falls primarily upon the personal representatives of the deceased...”

⁴ (1857) 21 JP 86

⁵ (1882) 20 ChD 659

⁶ [1999] 2 FLR 844 at 845–846

[30] The Deceased died testate, having executed her Last Will and Testament on 10th December 2020.

[31] **Sharp v Lush**⁷ establishes that an executor appointed by will is entitled to possession of the body for the purpose of arranging its proper disposal even before probate has been granted. There can therefore be little doubt that, the First Respondent, as the Deceased's named executrix, has the primary right and duty to take possession of the Deceased's remains for the purposes of arranging the funeral and final disposition. That conclusion, however, does not determine every issue before the Court.

[32] **Article 586(6)(b) of the Civil Code**⁸ empowers the Court, where special circumstances make it necessary or expedient, to depart from the ordinary order of entitlement in relation to the grant of administration. It provides:

“(6) In granting letters of administration, the Court shall have regard to the rights of all persons interested in the succession or the proceeds thereof and to any prescribed provisions:

Provided that –

(a) ----

(b) if, by reason of the insolvency of the succession of the deceased or of any other special circumstances, it appears to the Court to be necessary or expedient to appoint as administrator some person other than the person who, but for this provision, would by law have been entitled to the grant of administration, the Court may, in its discretion, notwithstanding anything in this Chapter, appoint as administrator such person as it thinks expedient...”
(emphasis added)

[33] In **Patel v Patel**⁹, the Court recognised that a serious dispute concerning funeral arrangements may amount to a special circumstance capable of justifying limited intervention in the ordinary administration of an estate.

⁷ (1879) 10 Ch 468 at 472

⁸ Cap. 4.01 of the Revised Laws of Saint Lucia

⁹ [2025] EWHC 560 (Ch)

[34] I have therefore considered whether the disagreement in the present case makes it necessary or expedient to appoint the Applicant, or some other person, for the limited purpose for which the grant is sought. In my view, it does not.

[35] The First Respondent is the person whom the Deceased herself appointed by will to administer her estate. An executor so appointed has the primary right to possession of the body for the purposes of arranging its proper disposal. In addition, during the Deceased's lifetime the First Respondent had been formally entrusted with responsibility for her affairs through her appointment as curator and, whatever dispute may exist as to the precise duration of her role as principal caregiver, the evidence establishes that she was substantially involved in the Deceased's care and affairs.

[36] The existence of a disagreement between siblings concerning burial or cremation does not, without more, require the Court to displace the person whom the Deceased selected as executrix.

[37] I therefore decline to appoint the Applicant, or any other person, in place of the First Respondent for the purpose of making the disposition arrangements. The application for a limited grant is accordingly refused.

[38] That conclusion concerns the identity of the person who has the primary legal authority and responsibility to make the arrangements. It does not answer the separate question whether the body should be buried or cremated. Nor does the First Respondent's reliance upon section 34 of the Burial and Cremation Act determine that issue. Even accepting that an executor or administrator is a person authorised to request cremation, that does not mean that a request for cremation is immune from the supervisory jurisdiction of the Court where a genuine dispute exists as to the proper method of disposition and the wishes of the deceased.

INHERENT JURISDICTION

[39] The authority of an executor in relation to the disposal of a deceased person's body remains subject to the inherent jurisdiction of the Court. The extent of that jurisdiction was considered by Sir Geoffrey Vos, Chancellor, as he then was, in **Oldham Metropolitan Borough Council v Makin**¹⁰, where he stated:

“[80] In my judgment, the court does have an inherent jurisdiction to direct how the body of a deceased person should be disposed of. The court will normally, as I have said, be deciding between the competing wishes of different sets of relatives, and will only need to decide who should be responsible for disposal rather than what method of disposal should be employed. I cannot see, however, why the court's inherent jurisdiction over estates is not sufficiently extensive to allow it, in a proper case, to give directions as to the method by which a deceased's body should be disposed of. In my view, it is.”

[40] A number of considerations relevant to the exercise of that jurisdiction. They include: (1) the wishes of the deceased: **Oldham** at [81]; (2) the reasonable wishes of the deceased's family and friends: **Godwin v Godwin**¹¹ at [78]; (3) the place with which the deceased had the closest connection: **Fessi v Whitmore**¹²; and (4) the need to ensure that the deceased's body is disposed of with proper respect and decency and without unnecessary delay: **Hartshorne v Gardner**¹³.

[41] These considerations are not to be applied mechanically. The weight to be given to each will depend upon the circumstances of the particular case.

[42] I turn first, and principally, to the evidence concerning the wishes of the Deceased. I have considered the evidence of the Applicant, the First Respondent and Keith Isaac, the evidence given by Jeannette Mason, and the independent evidence of the Second Respondent concerning the funeral arrangements made during the Deceased's lifetime.

[43] In assessing that evidence, it is necessary to distinguish between what family members now believe or recollect the Deceased to have wanted and the contemporaneous

¹⁰ [2018] Ch 543

¹¹ [2026] EWHC 923 (Ch)

¹² [1999] 1 FLR 767

¹³ [2008] EWHC 3765 (Ch)

evidence of arrangements which existed before this dispute arose. The Court is not called upon to decide which sibling loved the Deceased more, or which sibling was more devoted to her during her lifetime. Nor is it necessary to resolve every disagreement concerning the history of their family relationships. The issue is narrower: what does the evidence, viewed as a whole, reveal about the Deceased's wishes and the arrangements contemplated for the disposition of her remains? In that exercise, contemporaneous and independent evidence assumes particular significance.

[44] The evidence of the Second Respondent is important in this regard. On 23rd February 2021, while the Deceased was alive, EC\$9,400.00 was paid in respect of funeral expenses for Jean Isaac and the Deceased. Two flat-top mahogany coffins were selected, at EC\$4,700.00 each. When the First Respondent subsequently requested a refund of EC\$1,000.00 in August 2022, the balance of EC\$8,400.00 was left with the Second Respondent and, according to Ms Prospere, the First Respondent instructed that it be applied towards the burial of the Deceased.

[45] I recognise that this evidence does not, by itself, establish that the Deceased personally made the payment or personally selected the coffin. It would therefore be unsafe to treat the mere existence of the arrangement as conclusive proof of an express instruction by the Deceased. Its significance lies elsewhere. The arrangement existed during the Deceased's lifetime and, importantly, it was made and maintained by the very person who now says that she was closest to the Deceased, knew her wishes and had been entrusted with responsibility for her funeral arrangements.

[46] Against that background, the first evidence before the Court of a change from burial to cremation arises after the Deceased's death. According to the Second Respondent, it was only September 2026 the First Respondent requested that cremation be arranged instead of the previously agreed burial.

[47] That chronology is significant. It establishes that burial was not an option devised by the Applicant only after learning of the proposed cremation. It had been the subject of a concrete arrangement, financial provision and the selection of a coffin years before the present dispute arose. More significantly, that arrangement had been made and

maintained by the First Respondent herself. This does not mean that the arrangement could never have been changed. It does, however, mean that the later change to cremation must be considered against the existence of an established burial arrangement which continued throughout the remainder of the Deceased's lifetime and was altered only after her death.

[48] This evidence must also be considered alongside the family and religious circumstances relied upon by the Applicant. His evidence was that the Deceased's late son was buried in a family tomb at Choc Cemetery together with the Deceased's parents, and that the Deceased's sister Jean, with whom she shared a particularly close relationship and her brother George were buried in another family tomb at the same cemetery. He also relied upon the Deceased's longstanding membership of the Seventh-day Adventist Church and upon information said to have been provided by a church elder that the Deceased had expressed a wish to be buried.

[49] I approach that evidence with appropriate caution. Some of it is hearsay and some reflects the Applicant's own understanding of what his mother would have wanted. Family custom and religious practice cannot, without more, determine the wishes of an individual deceased person. I therefore do not regard those matters as conclusive. They are, however, consistent with the independent evidence that burial arrangements had in fact been made during the Deceased's lifetime. They do not stand entirely alone.

[50] There is also the First Respondent's own evidence concerning the Deceased's participation in planning her funeral. The First Respondent stated that the Deceased had selected the colours to be worn and had chosen hymns and readings. It is therefore apparent that the Deceased gave some thought to the manner in which her funeral was to be conducted.

[51] I would not regard silence concerning cremation, standing alone, as proof that the Deceased did not want to be cremated. However, the absence of any identified statement by the Deceased changing the existing burial arrangement assumes greater significance when there was already a burial arrangement in place and when the Deceased had otherwise given specific instructions concerning aspects of her funeral.

[52] There is no evidence before the Court of any arrangement for cremation made during the Deceased's lifetime. There is no written instruction directing cremation, nor has any witness identified a clear statement by the Deceased that she wished to be cremated. That absence is not determinative. Nevertheless, when considered together with the pre-existing burial arrangements, the selection of a coffin, the financial provision for burial and the Deceased's participation in planning other aspects of her funeral, it is a relevant circumstance.

[53] I have given careful consideration to the First Respondent's evidence that the Deceased told her that she trusted her to do what she considered best. That evidence is entitled to weight, particularly given the First Respondent's close involvement in the Deceased's affairs. It is important, however, to identify precisely what that evidence establishes. The First Respondent does not say that the Deceased expressly told her that she wished to be cremated. Rather, her evidence is that the Deceased entrusted her with a discretion to make what she considered to be the appropriate arrangements.

[54] There is a material distinction between an express wish to be cremated and a general entrustment of responsibility to make appropriate arrangements. The latter must necessarily be considered in the context in which that responsibility was conferred. At that time there already existed arrangements for burial, and those arrangements had themselves been made and maintained by the First Respondent. In those circumstances, the First Respondent's evidence of the discretion entrusted to her does not, without more, establish that the Deceased intended cremation or intended that the existing burial arrangement be disregarded.

[55] The evidence also discloses that relations between the Applicant and the First Respondent have been strained. That provides an additional reason for caution when assessing assertions by either sibling as to what the Deceased would have wanted. The contemporaneous records are therefore particularly useful. They pre-date the present dispute and are not dependent upon either party's present recollection or interpretation of past conversations.

[56] I must also consider the suggestion that burial in the family tomb was impracticable because there was no available space. The First Respondent stated that enquiries made by herself and her sister indicated that the tomb already contained three persons and would have to be extended before the Deceased could be buried there.

[57] The Applicant, however, produced correspondence from the Office of the Castries Constituency Council which, on the evidence before the Court, confirms that one space remains available in the relevant family tomb. This is independent documentary evidence from the authority responsible for the cemetery records. No comparable documentary evidence was produced to establish that the tomb was already full. In those circumstances, I am unable to accept that the absence of burial space constituted a practical obstacle to burial.

[58] Taking the evidence as a whole, I am satisfied that burial was the anticipated method of disposition during the Deceased's lifetime. That conclusion does not depend upon any single item of evidence. It arises from the cumulative effect of the burial arrangements made while the Deceased was alive, the financial provision for those arrangements, the selection of a coffin, the fact that the arrangement remained in place until after her death, the family history of burial, the availability of a burial space, and the evidence concerning the Deceased's own participation in planning aspects of her funeral.

[59] I do not find that the evidence establishes that the Deceased gave an unequivocal or formal direction that she must be buried. The evidence does not go that far. Equally, however, there is no evidence that she gave an express direction that she wished to be cremated. What the evidence does establish is that burial was the existing, longstanding and financially provided-for arrangement during her lifetime, whereas the decision to substitute cremation arose only after her death.

[60] I therefore find, on the balance of the evidence and insofar as the Court is able to ascertain the Deceased's wishes, that those wishes are more consistent with burial than with cremation.

[61] I have also considered the wishes of the surviving family members. Those wishes are divided and, although sincerely held, cannot therefore provide a decisive answer. Nor does the factor concerning the place with which the Deceased had the closest connection materially assist in resolving the present dispute. The real controversy is not whether the Deceased should be laid to rest in Saint Lucia, but the method by which her remains should be disposed of.

[62] Finally, I have had regard to the requirement that the body of a deceased person be disposed of with proper respect and decency and without unnecessary delay. I am satisfied that directing burial is consistent with that requirement. The evidence demonstrates that a burial place is available and that substantial financial and practical arrangements for burial have already been made. There is therefore no evidential basis upon which I could conclude that cremation is necessary to secure either the prompt or the dignified disposition of the Deceased's remains.

CONCLUSION

[63] Having considered the evidence as a whole, including the evidence concerning the Deceased's wishes, the contemporaneous burial arrangements, the competing wishes of the family, the availability of a burial place and the need for the Deceased's remains to be disposed of promptly and with dignity, I direct that the remains of the Deceased be buried.

[64] The First Respondent remains the Deceased's executrix and the person having the primary responsibility for arranging the final disposition of her remains. She shall therefore make the necessary arrangements for the burial of the Deceased in accordance with this judgment.

[65] I also note the unusual nature of these proceedings. Although the matter came before the Court by way of an application for interim injunctive relief, all interested surviving children were served, the matter proceeded inter partes, affidavit evidence was filed by the opposing parties and the Court heard oral evidence from the Deceased's three surviving children. The issue requiring urgent determination was the method by which the Deceased's remains should be disposed of, an issue which, by its nature, could not

sensibly await the ordinary progression of a substantive claim. The determination made in this judgment therefore, in substance, disposes of the intended substantive dispute. No consequential case-management directions are required.

[66] Finally, I would urge the parties to permit this judgment to bring the present dispute to an end. Whatever differences may have arisen between them, they remain united by the loss of their mother. The Court has determined the issue which it was required to decide. The time has now come for the parties to look beyond their disagreement, to come together in mourning and to allow their mother's final rites to take place with the dignity and peace which she deserves. I sincerely hope that, with the passage of time, the parties will be able to heal the divisions which have arisen and preserve the family bonds which remain.

ORDER:

[67] Accordingly, I make the following orders:

- 1) The Applicant's application for a limited grant of letters of administration for the purpose of arranging the final disposition of the remains of Bernice Isaac Mason, also known as Bernice Isaac and Bernice Melcia Isaac Mason ("the Deceased"), is refused.
- 2) Pursuant to the inherent jurisdiction of the Court, the remains of the Deceased shall be disposed of by burial and shall not be cremated.
- 3) The First Respondent, in her capacity as executrix of the estate of the Deceased, shall make all necessary arrangements for the burial of the Deceased.
- 4) The First Respondent, whether by herself, her servants, agents or otherwise, is restrained from causing or permitting the remains of the Deceased to be cremated.

- 5) The Second Respondent shall not cremate, or cause or permit the cremation of, the remains of the Deceased and shall act in accordance with the arrangements made by the First Respondent for the burial of the Deceased pursuant to this Order.
- 6) Each party shall bear their own costs of this application.

**Alvin Shiva Pariagsingh
High Court Judge**

By the Court

Deputy Registrar of the High Court