

ORDERS FOR RECOVERY OF POSSESSION, LAND OR ESTATE

Under Section 158 of the Registration of Titles Act the court may direct the Registrar of Titles to:

- a. Cancel/amend any Certificate of Title or instrument or any entry in the Register Book;
- b. To issue a new Certificate of Title in the name of specified persons or substitute such title, instrument or entry;

It is unlikely a Court will make such order unless the Certificate of Title has lost its indefeasibility under Subsections (a) (b) (c) (d) (e) or (f) of Section 161.

Certain requirements must be met by applicants before the order of the court can be registered and noted on the Register Book of Titles.

1. An attested copy of the order of the court containing instructions to the Registrar of Titles must be presented;

2. An application by statutory declaration must be made by the applicant requesting registration of the order of the court and directing the Registrar to carry out the instructions of the court;
3. A mailing address and occupation for the for the person to whom the new title is being issued should be stated;
4. The duplicate certificate of title must be produced. If the duplicate certificate of title is not available then the applicant must request a dispensation pursuant to Section 81 of the Registration of Titles Act. The applicant should prove that the certificate of title was requested in order to have the order registered but same was not produced. This is particularly so where the Court has ordered production of the duplicate.
5. Where an order was made ordering the issue of title to a person other than the registered proprietor, the order should be submitted to the Stamp Commissioner for assessment as a conveyance or a Settlement under these headings in the schedule to Stamp Duty Act.

6. If a new certificate of title is required a declaration of value should be submitted for the calculation of fees;
7. If the judgment effectively subdivides the land the subject of the order sub-division approval under Local Improvement Act along with survey plan is still required.
8. Any instrument (mortgage/lease) or caveat endorsed against the existing certificate of title will be carried forward to the new certificate of title unless the order of the court specifically discharges these incumbrances.

Where the Court orders that property jointly owned be vested in one of the registered owners or land owned by a party be vested in another party then both parties are to give effect to the order. The necessary instruments to give effect to the order should be signed by both parties and in default to be signed by the Registrar of the Supreme Court. An order of the court vesting the property will form the basis of the transfer.

In cases where the party is unable, refuses to sign the transfer, cannot be found or any other reason the transfer cannot be obtained within a reasonable time an application to the Court for the Registrar of the Court to sign the instrument necessary to effect a transfer is required.