



**IN THE
TENTH COURT OF APPEALS**

No. 10-16-00059-CV

IN RE DEBBIE ECHOLS AND RHONDA ECHOLS

Original Proceeding

MEMORANDUM OPINION

Debbie Echols and Rhonda Echols filed three separate lawsuits arising out of a 1996 real estate transaction. The trial court consolidated the three lawsuits resulting in one lawsuit, Cause No. 29,385-A, Debbie Echols and Rhonda Echols v. Gullede and Sons, L.L.C.; Groesbeck Abstract & Title Co., Inc., D/B/A Limestone County Title Company; Patrick Simmons, Martha Lynch, and Cannon & Simmons (now known as Cannon & Wilson, P.C.). The Echols filed a motion for partial summary judgment against the defendants, and that motion was denied on April 27, 2012. On that same day, the trial court granted the summary judgment motion of Patrick Simmons, Martha Lynch, and Cannon & Wilson P.C.

On October 25, 2013, the trial court severed Debbie and Rhonda's causes of action against Simmons, Lynch, and Cannon & Wilson, P.C. from their claims against the other parties. This Court affirmed the trial court's order granting summary judgment in favor of Patrick Simmons, Martha Lynch, and Cannon & Wilson P.C. *See Echols v. Gullede & Sons, LLC*, No. 10-13-00419-CV, 2014 Tex. App. LEXIS 10190 (Tex. App.—Waco September 11, 2014, pet. denied) (mem. op.). On October 25, 2013, the trial court also granted the summary judgment motion of Groesbeck Abstract and Title Company.

On August 11, 2015, the Echols filed a request for the trial court to rule on three motions: 1) Plaintiff's fourth motion for summary judgment against Gullede and Sons, L.L.C.; 2) Plaintiff's second motion to take judicial notice of a federal district court judgment; and 3) Plaintiff's motion to take judicial notice of a federal court judgment. In this mandamus, the Echols complain in three issues that the trial court has refused to rule on their motions to take judicial notice of a federal court judgment.

The Echols argue that the trial court has refused to rule on their motions to take judicial notice in a reasonable time and that the refusal to rule is a violation of due process. In their motion to take judicial notice of the federal court judgment, the Echols note that Rule 201 of the Texas Rules of Evidence provides the court "must take judicial notice if a party requests it and the court is supplied with the necessary information." TEX. R. EVID. 201 (c)(2). Rule 201 (d) provides that the court may take judicial notice at any stage of the proceeding. TEX. R. EVID. 201 (d). Because the trial court may take judicial notice at any stage of the proceeding, we cannot compel the trial court to take judicial notice at this interlocutory stage of the proceeding.

Moreover, in the prayer for relief, the Echols request this Court to “grant this writ of mandamus to direct [the trial court] to recuse himself immediately, direct the properly reassigned visiting judge to schedule a hearing for Plaintiffs pending motions immediately, and rule on the facts within said motions within 30 days, and/or all such other relief to which they are entitled.” This Court does not have jurisdiction to order a trial court to recuse itself. *See* TEX. R. CIV. P. 18a. Therefore, we cannot grant the relief requested.

Relators’ petition for writ of mandamus is denied.

AL SCOGGINS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Petition denied

Opinion delivered and filed March 17, 2016

[OT06]

