

IN THE CONSTITUTIONAL COURT OF SEYCHELLES

**MA 180/2016
(arising in CP 04/2012)**

[2016] SCCC14

THE GOVERNMENT OF SEYCHELLES
Applicant

versus

ROBERT NELSON POOLE

Respondent

Heard:

Counsel: Mr Chinnasamy for Applicant

Mr Boule, Mr Gabriel for Respondent

Delivered: 05 July 2016

RULING

We have considered the application for the stay carefully together with the answer of the respondent. We have heard your argument this morning both for the respondents and the appellant, we have considered also the authorities you shared with us.

In our final deliberation we conclude that in the instant case we should follow the judgment of Paul and William CS 244/1993 which we adopt as being a same basis for consideration of granting or not granting of stay:

- [1] In the light of this it is the view of this Court that the Appellant will not suffer any loss which could not be compensated in damages;
- [2] We do not believe there is any special circumstances required in these case;
- [3] We do not believe on the face of the record that there is proof of substantial loss that may otherwise result, if there is any maybe the super Court of Appeal may decide but it is for the Court of Appeal:
- [4] It is our view that there is no substantial question of law to be adjudicated upon but if there is any such point the Court of Appeal will adjudicate and make any order they deem appropriate:
- [5] We do not believe that where the subject matter is read the issue of being nugatory arises and for this reason we believe that this stay ought not to be granted. Now there is a caveat to this we bear in mind that after this ruling either party or at least the appellant has a further recourse the Court of Appeal even on the course of this stay and also on appeal and we have informed you that if there is anything arising out of the appeal in favour of the appellant the Court of Appeal is a Court that can make any order it deems necessary in the circumstances. So in the final analysis we do grant a stay of execution in this matter.
- [6] The matter of fact I believe the respondent should pursue the judgment in the ordinary course of matter that is the ruling of the Court unless my brothers want to add anything.

Signed, dated and delivered at Ile du Port on 05 July 2016

D Karunakaran B Renaud
Judge of the Supreme Court **Judge of the Supreme Court**

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Judge of the Supreme Court