

IN THE SUPREME COURT OF SEYCHELLES

Dream Yacht Charter

Plaintiff/Petitioner

vs

S. A Croisières Caraïbes

Defendant/Respondent

C/O VPM, Domestic Port

Victoria, Mahe

Civil Side No: 325 of 2008

Ex Parte

Mr. P. Pardiwalla for the Plaintiff/Petitioner

D. KARUNAKARAN, J.

ORDER

This is an application filed by the plaintiff-company under Section 280 of the Seychelles Code of Civil Procedure. In this application, the plaintiff seeks this court for an order to seize provisionally a movable property, a boat belonging to the defendant pending final determination of the main suit in this matter.

Indeed, by a plaint dated 6th November 2008, the Plaintiff has commenced the suit in C. S No: 325 of 2008, claiming damages from the

defendant-company in the sum of €63,414.50 for breach of contract. Having thus commenced the suit, the plaintiff fears that the defendant may dispose of the company's assets at any time before the determination of the suit, depriving the plaintiff from realizing the fruits of the judgment the court may give in its favour. Hence, the plaintiff has now come before this court for an urgent order to seize provisionally the Yacht "CHAMPOLLION" belonging to the defendant, which is based in Seychelles and operating within the territorial water of Seychelles.

Upon a careful perusal of the plaint, the petition, and the affidavit of facts filed in support thereto, I am satisfied that the Plaintiff has a *bona fide* claim against the defendant in this suit. From the averments on record, it appears that there is a clear danger that the defendant may avoid satisfaction of judgment, if given for the plaintiff. I reasonably believe that unless an order of provisional seizure is granted, the plaintiff would not be able to realise the fruits of the judgment, if given in its favour in the original suit. Furthermore, I find that it is an appropriate case, where the court should make an urgent *ex parte* order of provisional seizure of the movable property belonging to the defendant, in the interest of justice. See, *Mareva Compania Naviera SA V. International Bulkcarriers SA* [1980] 1 All E. R at p 215.

In view of all the above, I hereby make an order for provisional seizure of the Yacht "CHAMPOLLION" belonging to the defendant, which is based in Seychelles and operating within the territorial waters of Seychelles.

The above order for provisional seizure is made pending the final determination

of the suit Civil Side No. 325 of 2008 in this matter or until further order of this court.

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D. Karunakaran

Judge

Dated this 7th day of November 2008

Further order

In pursuance of the above order, I direct the Registrar of the Supreme Court to issue the warrant for the provisional seizure of the Yacht "CHAMPOLLION" above referred to. And a Copy of the order made herein to be served on the defendant along with a copy of the petition. A copy of this order should also be served on the Harbour Master. Mr. Pardiwalla may be informed of the order forthwith.

Mention (First Time) on 27th January 2009 at 9 am. Summons to be served on the defendant along with a copy of the plaint.

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D. Karunakaran

Judge

Dated this 7th day of November 2008