

IN THE SUPREME COURT OF SEYCHELLES

Allied Builders (Seychelles) Limited

Plaintiff/Petitioner

vs

Fregate Island (Pty) Limited

Of Aarti Chambers, Mont Fleuri, Mahe

Defendant/Respondent

Civil Side No: 326 of 2008

Ex Parte:

Mr. K. B. Shah for the Plaintiff/Petitioner

D. KARUNAKARAN, J.

ORDER

This is an application filed by the plaintiff seeking this Court for an interlocutory injunction and an order for the provisional attachment of the monies belonging to the defendant, which are in the hands of third parties. The orders herein are sought as an urgent interim relief pending the final determination of the main suit in this matter. In this application, the plaintiff prays this court:

a) *To order the defendant forthwith to return to the plaintiff in Mahe all its building materials morefully set out in the Memorandum signed by the defendant's representative Mr. Felix Alphonse, in July, 2008: and*

A provisional attachment of the monies belonging to the defendant and found in the bank accounts of the defendant or held in the name of the defendant with the Banks in Seychelles namely, Barclays Bank, Nouvobanq, Mauritius Commercial Bank, cover the amount up to the extent of US Dollars 808,374.02 cts (or its equivalent in Seychelles Rupees)

By a plaint dated 31st October, 2008, the Plaintiff has commenced the suit in C. S No: 326 of 2008, against the defendant claiming the sum of US Dollars 808,374.02 and building materials from the defendant alleging a breach of contract. The suit is now pending before the court for determination. Having thus commenced the suit, the plaintiff fears that the defendant may dispose of the plaintiff's building materials and the defendant's moneys in the bank accounts at any time before the determination of the suit, depriving the plaintiff from realizing the fruits of the judgment the court may eventually give in their favour. Hence, the plaintiff has now come before this court for an urgent order of interlocutory injunction and for an order attaching provisionally any money/s

belonging to the defendant with or due from third party namely, (i) Barclays Bank, (ii) Nouvobanq and (iii) Mauritius Commercial Bank all of Victoria, Mahé, Seychelles.

Upon a careful perusal of the plaint, the petition, the affidavit of facts filed in support and the documents annexed 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 defendants may avoid satisfaction of judgment, if given for the plaintiff. I reasonably believe that unless an order of provisional attachment is granted, the plaintiff would not be able to realise the fruits of the judgment, if given in their favour in the original suit. Furthermore, I find that it is an appropriate case, where the court should make an urgent *ex parte* interim injunction and an order of provisional attachment of the monies 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 attaching provisionally any money/all the monies (not exceeding US Dollars 808,374.02 cts or its equivalent in Seychelles Rupees) due to or belonging to the defendant-Company “Fregate Island (Pty) Ltd” which is/are in the hands of or held in accounts with:

**(i) Barclays Bank,
(ii) Nouvobanq and**

**(iii) Mauritius Commercial Bank all of Victoria, Mahé,
Seychelles.**

The above order for provisional attachment is made pending the final determination of the suit Civil Side No. 326 of 2008 in this matter or until further order of this court.

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D. Karunakaran

Judge

Dated this 1st day of December 2008

ORDER OF INTERLOCUTORY- INJUNCTION

Besides, I hereby grant an interim injunction ordering the defendant "Fregate Island (Pty) Ltd" of Aarti Chambers, Mont Fleuri to deliver possession and return forthwith to the plaintiff in Mahé, all the building materials belonging to the plaintiff morefully set out in the Memorandum signed by the defendant's representative Mr. Felix Alphonse, in July 2008.

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D. Karunakaran

Judge

Dated this 1st day of December 2008

Further order

In pursuance of the above orders, I direct the Registrar of the Supreme Court to issue

i) The warrants for the provisional attachment of the monies accordingly; and

A copy of the above order of injunction and the provisional attachment of money made herein to be served on the defendant along with a copy of the petition, plaint and the documents attached thereto.

Mention (First Time) on 27th January 2009 at 9 a. m before the Master and Registrar. Summons to be served on the defendants with a copy of the plaint.

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D. Karunakaran

Judge

Dated this 1st day of December 2008