

**IN THE SUPREME COURT OF  
SEYCHELLES**

In the Matter of:-

- 1. ADRIATIC FUND B.V.**
- 2. ORUGAD.O.O.**
- 3. FACTOR BANKAD.D.**
- 4. KIGD.D.**
- 5. MILENALOGAR**
- 6. VENTURE HOLDING B.V.**

**Plaintiffs**

**VERSUS**

- 1. MERCHANT OUTPOST COMPANY**
- 2. BOSS PAYMENT LIMITED**

**Defendants**

Civil Side No. 166 of 2011

**Ex Parte**

Mr. J. Renaud for the

Plaintiff **D.**

***Karunakaran. J***

**ORDER**

This is an interlocutory application, made by the plaintiff/applicant under Section 304 of the Seychelles Code of Civil Procedure read with Section 6 of the Courts Act. In this application, the plaintiff/applicant seeks this court for an urgent ex parte order of injunction :-

1. Preventing the 1<sup>st</sup> defendant from transferring any shares it holds in MAIB obtained pursuant to the Arbitral Award and the Enforcement Order, or any interest in such shares to any third party including Global Systems;
2. Preventing the 1<sup>st</sup> defendant from transferring any shares it holds in Global Systems or any interest in such shares to any 3<sup>rd</sup> party; and
3. Preventing the 1<sup>st</sup> defendant from adopting any resolutions or voting for the adoption of any resolutions by Global Systems in a manner which will be inconsistent with this Court's order.

These interim reliefs are sought by the plaintiff pending the final determination of the main suit in this matter.

By a plaint dated 19<sup>th</sup> August 2011 the applicant has instituted a civil suit in CS 166 of 2011 seeking a judgment for in essence, permanent reliefs herein before mentioned. The said suit is still pending before the court for determination.

Having thus filed the suit seeking those reliefs the plaintiff now reasonably fears that unless precautionary measures are taken, the defendants might sell/transfer shares and deprive the plaintiff from realising the fruits of the judgment the court may give in its favour. Hence the plaintiff has made an interlocutory application to this court for an urgent ex parte order invoking this court's equitable powers in the interest of justice. This application for ex parte order

is made in good faith against the defendant as mentioned supra.

Upon a careful perusal of the application, the affidavit and other relevant documents on record as well as the pleadings in the plaint, I am satisfied on the face of the affidavit that the applicant has a ***bona fide*** claim against the defendant in this matter. From the documents on record, it appears to me that there is a clear danger in that, unless precautionary measures are taken and an order of interim injunction is granted, the applicant will not be able to realize the fruits of its judgment, if given in its favour in the main suit.

Furthermore, I find that it is an appropriate case where the court should make an urgent ex parte order of interim injunction against the defendants as sought by the plaintiff. Moreover, I believe that such an injunction ought to be granted in the interest of justice in this matter. See, ***Mareva Compania Naviera SA V International BulkcarriersSA (1980) 1AIER*** at p 215.

In the light of the above and having regard to all the circumstances of the case, I hereby make an order of interim injunction:-

1. Preventing the 1<sup>st</sup> defendant from transferring any shares it holds in MAIB obtained pursuant to the Arbitral Award and the Enforcement Order, or any interest in such shares to any third party including Global Systems;
2. Preventing the 1<sup>st</sup> defendant from transferring any shares it holds in Global Systems or any interest in such shares to any 3<sup>rd</sup> party; and

3. Preventing the 1<sup>st</sup> defendant from adopting any resolutions or voting for the adoption of any resolutions by Global Systems in a manner which will be inconsistent with this Honourable Court's order.

The above injunction is granted pending the final determination of the main suit in this matter or until further order of the court.

### **Final Order**

In pursuance of the above order, I direct the Registrar of the Supreme Court to cause service of the above order of injunction on the defendants forthwith. Besides, a copy of the above order accompanied by a copy of the plaint filed in this matter should also be served on the defendants.

The case is to be mentioned on **13<sup>th</sup> October 2011 at 9:00 a.m.**  
Suit-Summons to be served on both defendants accordingly.

**D. KARUNAKARAN**  
**JUDGE**

Dated this 8<sup>th</sup> day of September 2011