

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: XP 97/2014

[2014] SCSC 302

In the matter of

BMIC LIMITED

Heard: 6th August 2014

Counsel: Mr. Bernard Georges for petitioner

Delivered: 6th August 2014

ORDER

Karunakaran J

[1] The petitioner BMIC Limited has applied to this Court for registration of a Foreign Judgment, which the petitioner obtained in its favour from the High Court of England. This application is made under Section 4(1) read with Section 9 of the Foreign Judgments (Reciprocal Enforcement) Act, Cap 85. I carefully perused the affidavit filed by one Ben Thomas Carroll, a partner at Linklaters LLP of One Silk Street, London EC2Y 8HQ, in support of the application and other relevant documents annexed thereto. I gave diligent thought to the submission of Mr. B. Georges, Learned Counsel for the petitioner touching on points of law and facts.

[2] First of all, on points of law, I quite agree with Mr. Georges in that the said Foreign Judgment being a British Judgment the registration of which is primarily governed by the Reciprocal Enforcement of British Judgments Act Cap199. Although the petitioner could apply for registration of this Judgment invoking Section 3 (1) of the Reciprocal

Enforcement of British Judgments Act, Section 9 of the Foreign Judgments (Reciprocal Enforcement) Act supersedes Section 3(1) of the Reciprocal Enforcement of British Judgments Act since the United Kingdom is also one among the Commonwealth countries, and as such its Judgment may be registered under Section 4(1) read with Section 9 of the Foreign Judgments (Reciprocal Enforcement) Act, which applies to the judgments of all Commonwealth countries.

[3] I uphold the interpretation given by Mr. Georges to the relevant provisions of law under both Acts hereinabove mentioned and accordingly, find the instant petitioner is entitled to apply for registration of the said foreign judgment under Section 4 (1) and read with Section 9 of the Foreign Judgment Reciprocal Enforcement Act.

[4] On the facts, I am satisfied that on the 12 June 2014 the High Court of Justice of the Queen's Bench Division, Commercial Court, United Kingdom per Poppelwell J entered judgment against one Mr. Chinnakannan Sivasankaran and Siva Limited and in favour of the petitioner for USD211, 240, 499.82 and Sterling Pound 75,000.00 with interest and cost in claim number 2012, folio no. 1439.

[5] I am equally satisfied that this application satisfy all the requirements to have it registered in the Supreme Court of Seychelles as a Foreign Judgment enforceable within the jurisdiction of the Supreme Court of Seychelles.

[6] Particularly, I am satisfied that:

(i) In hearing the matter and delivering the said judgment the High Court of Justice acted with jurisdiction;

(ii) The Judgment-Debtors were persons not carrying on business or ordinary resident within the jurisdiction of the High Court of Justice but submitted to the Jurisdiction of the Court;

(iii) The Judgment-Debtors being the Defendants in the proceeding were duly served with process and did appear before the High Court of Justice.

(iv) The judgment was not obtained by fraud, and

(v) There is no appeal pending and the time allow for any appealed application has expired

(vi) The Judgment was not in respect of a course of action which for reasons of public policy or some other similar reasons could not have been entertained by the court.

[7] Finally, I am satisfied that no sum has been paid the Judgment-Debtors in satisfaction of the said judgment. In these circumstances, I find it just and necessary that this Court should order registration of the said Foreign Judgment namely: The Judgment of the High Court of Justice of the Queen's Bench Division, Commercial Court, United Kingdom, dated 12th June 2014 in Claim no. 2012, Folio No. 1439 being a Foreign Judgment and subject to the provision of the Foreign Judgment Reciprocal Enforcement Act.

[8] Therefore, I hereby order registration of the said Foreign Judgment in the Supreme Court of Seychelles and direct the Registrar to do the necessary accordingly. However, I note, counsel for the petitioner has undertaken to file the certified original copy of the said Foreign Judgment with the Registrar of the Supreme Court as soon as possible. Further in the interest of Justice I direct the Registrar of the Supreme Court to serve a notice of the registration made hereof, to the Judgment-Debtors in Seychelles or to their agents or attorneys in Seychelles.

[9] In view of the information given by Mr. Georges, I direct the Registrar to serve the said notice of registration to Mr. Basil Hoareau, who is the Attorney for the Judgment-Debtor Mr. Chinnakannan Sivasankaran in the Republic of Seychelles.

Signed, dated and delivered at Ile du Port on 6th August 2014.

D Karunakaran
Judge of the Supreme Court