

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MA 328/2014

(arising in CS 104/2014)

[2014] SCSC 449

**BARRINGTON DEVELOPMENT LIMITED
(HEREIN REP BY GIRISH DAHYABHAI PATEL)**

1st Plaintiff

GIRISH DAHYABHAI PATEL

2nd Plaintiff

Versus

OCRA SEYCHELLES LIMITED

1st Defendant

YASHWANT DAHYABHAI PATEL

2nd Defendant

Heard: 19th November 2014

Counsel: Mr. Frank Ally & Mr. Basil Hoareau for Plaintiffs

Delivered: 19th November 2014

RULING

D. Karunakaran, Acting Chief Justice

[1] This is the ruling on the motion filed by the plaintiffs dated the 19th of November 2014, seeking Interlocutory Injunction against the defendants. By a plaint dated the 14th of October 2014 both plaintiffs in this matter, have come before the Court seeking the following reliefs;

- (i)** To declare that the resolutions referred to in the plaint are legal, valid and enforceable;
- (ii)** To declare that the 2nd Plaintiff is the absolute owner of the shares in the plaintiff-company;
- (iii)** Issue a mandatory injunction against the 1st Defendant compelling the 1st Defendant to:
 - (a)** amend the copy of the Share Register kept at the office of the 1st Defendant to reflect that the 2nd plaintiff is the absolute owner of the shares; and
 - (b)** amend the Register of Directors kept at the office of the 1st Defendant's office and in its custody to give effect to the resignation of the late Prabhavati Dahyabhai Patel as a Director as to reflect that the 2nd plaintiff is the sole Director of the 1st Plaintiff;
- (iv)** Issue a prohibitory injunction against the 2nd defendant, prohibiting the 2nd defendant from making any claim or ascertain any right whatsoever in respect of the shares of the 1st plaintiff; and
- (v)** Order the 1st and 2nd Defendants to jointly and severally pay cost to the plaintiff; and
- (vi)** Make any such or other order as this court may deem fit and necessary having regard to all the circumstances of the case.

[2] Having instituted this suit the plaintiffs have filed a motion for an ex-parte hearing seeking an interlocutory prohibitory injunction:-

- (i) To prohibit the OCRA (Seychelles) Limited (the 1st Defendant in the main suit) from recognising and/or treating Mr. Yashwant Dahyabhai Patel (the 2nd Defendant in the main suit) or any other person except the 2nd plaintiff as the shareholder of the 1st plaintiff and from amending it's copy of the Share Register to give effect to the above mentioned recognition; and
 - (ii) An interlocutory mandatory injunction compelling OCRA (Seychelles) Limited (the 1st Defendant in the main suit) to recognise and treat the 2nd plaintiff as the sole Director of the 1st plaintiff; and
 - (iii) An Interlocutory prohibitory injunction prohibiting Mr. Yashwant Dahyabhai Patel (the 2nd Defendant in the main suit) from transferring or disposing of and/or otherwise dealing in any manner with the shares in the 1st plaintiff company and causing the shares to be registered in his name or any other person other than the 1st plaintiff.
- [3] These Interlocutory prohibitory injunctions are sought until the final disposal of the main suit or until further order of the Court.
- [4] In support of this motion, the 2nd plaintiff Mr. Girish Dahyabhai Patel has filed an affidavit deponing to the facts and other circumstances under which the alleged cause of action arose in this matter and of the reasons for seeking ex-parte Interlocutory Injunction in this matter.
- (i) I carefully perused the affidavit filed in support of this motion. First of all, on the face of the pleadings, I am satisfied that the plaintiffs appear to have a *bona fide* claim against the defendants in this suit.
 - (ii) I am satisfied unless the court grants the interlocutory injunction as sought by the plaintiffs in this matter, the plaintiffs may not be able to realise the fruits of the judgment if given in their favour.

(iii) I am equally satisfied that if the interlocutory injunction is not granted the plaintiffs will suffer substantial and irreparable loss, hardship, inconvenience, prejudices and distress in the event judgment is given in their favour.

[5] Having given careful thought to the entire circumstances of the case and in the interest of justice and in terms of the equitable powers conferred on this court under Section 5 and 6 of the Court Acts, I hereby grant injunctions against both defendants as follows:-

(i) I hereby grant an interlocutory prohibitory injunction, preventing the OCRA (Seychelles) Limited (the 1st Defendant in the main suit) from recognising and treating Mr. Yashwant Dahyabhai Patel (the 2nd Defendant in the main suit) or any other person except the 2nd plaintiff as the shareholder of the 1st plaintiff and from amending its copy of the Share Register to give effect to the above mentioned recognition.

(ii) I also grant an interlocutory mandatory injunction compelling OCRA (Seychelles) Limited (the 1st Defendant in the main suit) to recognise and treat the 2nd plaintiff Mr. Girish Dahyabhai Patel as the sole Director of the 1st plaintiff-company.

(iii) Further, I grant an interlocutory prohibitory injunction to preventing Mr. Yashwant Dahyabhai Patel (the 2nd Defendant in the main suit) from transferring disposing of and or otherwise dealing with any manner with the shares in the 1st plaintiff-company and causing the shares to be registered in his name and or any other persons other than the 2nd plaintiff namely Mr. Girish Dahyabhai Patel.

[6] All the above orders are made until the final disposal of the main case in this matter or until further order of this court. I made the above order in the light of the principles set by Lord Denning in *Mareva Compania Naviera-SA Vs International Bullecarriers Ltd* [1975] 2 Lloyd's Report 509, CA.

Signed, dated and delivered at Ile du Port on 19th November 2014.

D Karunakaran
Acting Chief Justice