

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MC 77/2014

[2014] SCSC 461

THE FINANCIAL INTELLIGENCE UNIT

Applicant

versus

FOREX PLACE LIMITED & OR

Respondents

Heard: 27 November 2014

Counsel: Mr. Galvin for petitioner

Respondents – Not Available

Delivered: 27 November 2014

ORDER

D. Karunakaran, Acting Chief Justice

[1] The Financial Intelligence Unit of Seychelles, hereinafter referred to as “the Applicant” by a notice of motion dated the 16th of September 2014 seeks this Court for the following orders;-

- (i) an interlocutory order pursuant to Section 4 of the Proceeds of Crime Act prohibiting the Respondents or such other person as this Court shall order or any

person having notice of the making of this order from disposing of or otherwise dealing with the whole or any part of the property set out in the table to the affidavit filed in support of the motion;

- (ii) thereafter an order pursuant to Section 8 of the Proceeds of Crime Act appointing Declan Barber of the Financial Intelligence Unit to be receiver of all the property set out in the table;
- (iii) such further or other order as the Court deems just and proper; and
- (iv) an order that the Applicant's costs of these proceedings be paid out of the said account of Forex Place Limited with Barclays Bank by the receiver.

[2] Since the first Respondent is a non-resident entity the Applicant applied to this Court for leave to serve summons outside the jurisdiction of this Court namely, in British Virgin Islands. The Court accordingly granted leave to issue summons outside the jurisdiction. Following the leave the Registrar of the Supreme Court served summons along with other relevant documents and a copy of the notice of motion to the first respondent through Express Worldwide, a courier service. Despite such service the first Respondent defaulted to put up any appearance. Likewise, the second Respondent namely, the Barclays Bank (Offshore) Seychelles Limited has also defaulted appearance. In the circumstances, the Court granted leave for the Applicant to proceed with an ex-parte hearing in this matter.

[3] On the strength of the affidavit filed in support of this application by the deponent, Declan Barber of the Financial Intelligence Unit, I find the following facts have been proved to my satisfaction;-

- (i) That the Respondents in this matter are in possession or control of specified property that is described in the table attached to the affidavit, which is hereinafter referred to as "the said property" and that the said property constitutes directly or indirectly benefit from criminal conduct; or

- (ii) That the Respondents are in possession or control of specified property, that is to say the said property, which was acquired in whole or in part, with or in connection with property that directly or indirectly constitutes benefit from criminal conduct; and
- (iii) That the value of the said property or as the case may be the total value of the said property is not less than SR50,000/-.

[4] In the circumstances, I am satisfied that this property involved in this matter appears to be the proceeds of crime. For these reasons I hereby make the following orders;-

- (i) I hereby make an interlocutory order pursuant to Section 4 of the Proceeds of Crime Act prohibiting the defendants or such other person or any person having notice of the making of this order from disposing of or otherwise dealing with the whole or any part of the property set out in the table to the affidavit filed by the said Declan Barber;
- (ii) Further, I make an order pursuant to Section 8 of the Proceeds of Crime Act appointing Declan Barber of the Financial Intelligence Unit to be the receiver of all of the property as set out in the table; and
- (iii) I make an order that the Applicant's costs of these proceedings be paid out of the said account of Forex Place Limited with Barclays Bank by the receiver.

[5] For the avoidance of doubt I read out the table which has been annexed to the affidavit. Item number one, which is described as the amount standing to credit in account number 1014940 in the name of Forex Place Limited together with any interest that might accrue thereon at Barclays Bank (Offshore) Seychelles Limited, Independence House, Victoria, Mahe, Seychelles. The amount involved is USD 183,945.78. The equivalent value in Seychelles rupees is SR2,423,761.57/-.

FURTHER ORDERS

[6] I hereby direct the Registrar of the Supreme Court to server a copy of this order on both Respondents.

[7] In pursuant of the order made hereinbefore I hereby direct the receiver namely, Declan Barber, to deposit the said sum in an account with the same bank namely, the Barclays Bank (Offshore) Seychelles Limited.

[8] Orders made accordingly.

Signed, dated and delivered at Ile du Port on 27 November 2014

D Karunakaran
Acting Chief Justice