

**IN THE SUPREME COURT OF SEYCHELLES**

**MA: XP 51/2014  
(arising in CC29/2013)**

**2014 [SCSC]**

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**In the matter of**

**BENOITON CONSTRUCTION (PTY) LTD**  
Applicant

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Heard: 3rd March 2014

Counsel: Elvis Chetty for the petitioner – Absent

Delivered: 7th March 2014

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**ORDER**

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**Robinson, J**

[1] This is an *ex parte* application under section 280 of the Seychelles Code of Civil Procedure CAP 213 (hereinafter referred to as the "SCCP"). The Petitioner is the plaintiff in the original suit commercial cause no. 29/2013. The Petition is supported by an affidavit, dated 20th January 2014, sworn by Alderick Benoiton, a director of the Petitioner.

[2] The Petitioner applies for a provisional order of seizure, and, in particular provisional seizure of movables in the possession of Trojan General Construction LLC, the defendant in the original suit. The movable property, listed in the possession of Trojan General Construction LLC, are the following —

- (a) Telescopic Loader of registration number S1568;
- (b) White Sportage Kia of registration number S22028;
- (c) JCB C X Site Master of registration number S13831.

[3] The Petitioner contends that the claim is made in good faith.

[4] I have considered the Complaint, the *ex parte* application and the affidavit of facts filed in support thereof. I note that the objects of the provisional seizure are vehicles. Does the word movable

under section 280 of the SCCP include the word vehicles? I repeat section 280 of the SCCP in part —

"280 – At any time after a suit has been commenced, the plaintiff may apply to the court to seize provisionally any movable property in the possession of the defendant in the suit [...].". Emphasis is mine

The SCCP does not define the word movable. I have, therefore, referred to article 533 of *Book II Chapter II - Movable Property* - of the Civil Code of Seychelles Act CAP 33. The said article provides —

"533 – The word movable used on its own in statutory provisions, or in private document, without any other additions or designation, shall not include cash, precious stones, debts due, books, medals, scientific instruments, professional or trade tools, clothes, horses, vehicles, arms, grains, wines, hay and other produce; neither shall it include anything which forms part of the stock in trade.". Emphasis is mine

[5] In view of the above, I find that the word movable under section 280 of the SCCP does not include the word vehicles. I am, therefore, satisfied that vehicles are not subject to provisional seizure.

[6] This is enough to dispose of the application.

[7] I dismiss the application.

[8] A copy of the order made herein to be served on Mr. Elvis Chetty learned counsel for the Petitioner.

Signed, dated and delivered at Ile du Port on 7th March 2014.

Fiona Robinson  
**Judge of the Supreme Court**