

IN THE SUPREME COURT OF SEYCHELLES

**Civil Side: MA 44/2016
(arising in CS11/2016)**

[2016] SCSC254

**IN THE MATTER OF: EXPARTE-
HARINI & COMPANY (PROPRIETARY) LIMITED
OF PROVIDENCE, MAHE HEREIN REPRESENTED BY ITS DIRECTOR MR.
KANDAN PILLAY
Applicant/Plaintiff**

versus

AND IN THE MATTER OF:

**IN THE MATTER OF: EXPARTE-
HARINI & COMPANY (PROPRIETARY) LIMITED
OF PROVIDENCE, MAHE HEREIN REPRESENTED BY ITS
DIRECTOR MR. KANDAN PILLAY
Plaintiff**

v/s

**BAJRANG BUILDERS (PROPRIETARY) LTD PROVIDENCE, MAHE
HEREIN REPRESENTED BY ITS DIRECTOR MR, BHUPESH HIRANI
Defendant**

Heard: 29th day of March 2016
Counsel: Mr. S. Rouillon for the applicant
Mr. F. Bonte for the respondent
Delivered: 8th day of April 2016

RULING ON MOTION

Govinden J

- [1] This is a Ruling on a Motion filed by the Applicant/Plaintiff dated the 18th day of February 2016, seeking for an Order of Interlocutory Injunction in pursuance to the provisions of Sections 121, 122, 123 and 304 of the Seychelles Code of Civil Procedure (Cap 213) as read with the provisions of Sections 5 and 6 of the Courts Act (Cap 52).
- [2] By way of a Plaint dated the 18th day of February 2016 Plaintiff in this matter seeks for the following reliefs:
- (a) rescission of the building lease agreement dated the 24th day of September 2010; and
 - (b) ordering the Defendant to:-
 - (i) immediately stop operating the workshop inside the leased premises or any activities whatsoever and to vacate the premises forthwith;
 - (ii) remove all the temporary sheds, containers and workers accommodation and personal belongings;
 - (iii) remove all construction materials, debris and machinery immediately;
 - (iv) to allow an independent architect to be appointed to finalize the cost of the building and include the defaults cost in his final report; and

- (v) cover any rents paid by the Plaintiffs to third parties namely Fish Leather & Co since January 2012 at S.R. 37,500/- per month for carrying out its own business activities;
- (vii) pay the Plaintiff the sum of S.R. 200,000/- special damages and cost of the action.

[3] Having instituted the above main suit, the Plaintiff have filed the current Motion ex-parte seeking an Interlocutory Injunction to prevent the Defendant from carrying on with the continued illegal occupation and activities in the Plaintiff's premises until the matters mentioned in the Plaint are fully and finally decided by this Honourable Court.

[4] In support of this Motion, the Applicant's director and representative Mr. Kandan Pillay has filed an Affidavit deponing to the facts and other circumstances under which the alleged cause of action arose in the main suit and of the reasons for seeking the Ex-parte Interlocutory Injunction in this matter. Further submission in support of the Motion was duly filed by Learned Counsel for the Applicant of which contents have been duly considered for the purpose of this Ruling.

[5] Learned Counsel Mr. F. Bonte for the Respondent relied on the Affidavit of Mr. Bhupesh Hirani representative of Bajrang Builders (Pty) Ltd in Reply of the 23rd day of March 2016 countering the Motion and of which contents have also been duly considered purpose of this Ruling.

[6] Now, having carefully scrutinized the Affidavit and supporting submissions and attachments in support of this Motion, I am satisfied as follows:

- (i) Firstly, on the face of the pleadings, I am satisfied that the Plaintiff appear to have a bona fide claim as against the Defendant in the main suit;
- (ii) I am further satisfied that unless the Court grants the Interlocutory Injunction as sought by the Applicant in this matter, the Plaintiff will suffer substantial and irreparable loss, hardship, inconvenience, prejudices and distress in the event Judgement is given in their favour.

[7] 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 in pursuance to sections 5 and 6 of the Courts Act (supra), I hereby grant the Motion for an Interlocutory Injunction to the following effect:

That the Respondent immediately ceases all unauthorized activities on the leased premises namely on the leasehold of Parcels V15933 and V15978 of Providence Mahe more particularly, operating a carpentry workshop, construction depot and temporary site accommodation for foreign construction workers; immediately demolish the unauthorised dormitories, corrugated iron sheet hoarding and corrugated iron sheet store on the above-said parcels; cart away all debris as resulting from the demolition of all the above-said unauthorized structures and vacate the premises forthwith pending the full and final determination of the main suit on its merits or until further Order of this Court.

[8] This Order is made in the light of principles as enunciated in the matters of (**Mareva Compania Naviera-SA v/s International Bullecarriers Ltd [1975] 2 Lloyd's Report 509, CA**), (**Barrington**

Development Limited and Ors v/s Odra Seychelles and Ors (CS No. 104 of 2014)) and (Marie Celine Joubert v/s George Constance (C.S. No. 63 of 2014)).

[9] For the reasons stated herein before, I grant the Motion for an Interlocutory Injunction as sought by the Applicant in this matter

Signed, dated and delivered at Ile du Port on 8th day of April 2016.

Govinden J
Judge of the Supreme Court