

IN THE SUPREME COURT OF SEYCHELLES

MA49/2018

(Arising in CC 42/2015)

[2018] SCSC 173

Supramanian Pillay

Applicant

versus

Seychelles Credit Union

Respondent

Heard: 21 February 2018

Counsel: Mrs Aglae for Applicant
Respondent absent

Delivered: 21 February 2018

ORDER

M. Twomey, CJ

1. The Applicant has applied for a stay of execution against an order of imprisonment for failing to pay a judgment debt. The Applicant has in separate proceedings also appealed the decision of the court imprisoning him for not paying a judgment debt. It is trite that an appeal does not operate as a stay of execution and a judge's discretion is exercised based on whether it is just and convenient to make such an order and to prevent undue prejudice to the parties.

2. In *Wilson v Church* (no. 2) 12 CHD 454 Cotton LJ stated “When a party is appealing, exercising his undoubted right of appeal, this Court ought to see that the appeal, if successful will not be nugatory.”
3. I have considered the competing rights of the parties in this case and although I do not speculate on the applicant’s prospect of success in his appeal I am of the view that a short date for hearing of the appeal will not be prejudicial to the Respondent but a refusal of the stay of execution would render the appeal nugatory. In the circumstances I grant the stay of execution.
4. I order that the record of the appeal be prepared as soon as possible and served on the applicant so that he may prepare his memorandum of appeal.

Signed, dated and delivered at Ile du Port on 21 February 2018

M. TWOMEY

Chief Justice