

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MA 248/2017

(arising in MC 60/2016)

[2018] SCSC 215

AUDREY STARODUBSTEV & ORS

Applicants

versus

FINANCIAL INTELLIGENCE UNIT

Respondent

Heard:

Counsel: Mr Rouillon for applicants

Mrs Rongmei for respondent

Delivered: 2 March 2018

RULING

R. Govinden, J

[1] The Applicants are 16 Russian nationals electing domicile in the chambers of Mr Serge Rouillon, Attorney-At-Law in Suite 14 Kingsgate house, Victoria, Mahe. The Respondent was a statutory Authority at the material time that it acted in this case. The Application is supported by several affidavits of the applicants that they have deponed either directly or through representatives;

- [2] On the 15th of September 2016 by consent order, the Supreme Court on the application of the Respondent pursuant to Section 8 of the Proceeds of Crime Civil Confiscation Act, hereinafter referred to as the POCCA, appointed a Receiver to receive the balance of property in USD account 38-1002691 and EU account 38-1004457 held by the RVD Markets at the Barclays Bank Seychelles Ltd PLC, after the subtraction of the legal expenses paid to Mr Frank Elizabeth, Attorney-At-Law;
- [3] The Applicant is seeking an order pursuant to Section 19 of the POCCA that the several sums listed in a schedule attached to the 16 Applicant's Application innocently paid into the account of RVD Markets Ltd be refunded to its Lawyer Mr Serge Rouillon acting on its behalf;
- [4] I have scrutinised the application, this affidavit and its attached documents. The Supreme Court judgment by consent dated the 15th of September 2016 is of paramount importance here. Paragraph 4 of the said judgment is pertinent, it reads as follows;
- “The said Receiver shall without delay take the necessary steps to evaluate the claim of the various persons claiming an interest in relation to the property. After having taken reasonable steps to ascertain all of the potential victims the Receiver shall report to this honourable Court by affidavit setting out the funds received by him. And the persons (if any) who is in his opinion to be entitle to receive the portion of the said funds as they made as if they have made an application under Section 4 (3) of the POCCA. The entitlement of the persons claiming in relation to the said sum shall be determined in accordance with the rule in the Clayton's case”*
- [5] I therefore find myself bound by this judgment by consent. This Court cannot supplement itself for the Receiver who has a mandate to evaluate the claims of the Claimants, including the Applicant's claim, who claim that he has interest in the property. And having done so to report to the Court by affidavit setting out the entitlement to receive portions of the fund.
- [6] Accordingly, I will dismiss this Application. The Applicant is free to institute an action against government, the FIU or the Seychelles Police or the Attorney General in order to

compel them to appoint the Receiver, if there is no Receiver yet appointed so that he carries out his duty in accordance with this judgment by consent. And to report back to the Court for the Court to be able to take the necessary actions.

[7] Accordingly, the application is dismissed.

Signed, dated and delivered at Ile du Port on 2 March 2018

R. Govinden, J
Judge of the Supreme Court