

**IN THE SUPREME COURT OF SEYCHELLES**

**MA 71 /2018**

**Arising in Civil Side: 33 / 2018**

**[2018] SCSC 311**

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**In the matter of**

**JEAN MARC PREIRA**

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Heard: 23<sup>rd</sup> of March 2018  
Counsel: Mr Joel Camille for Plaintiff  
Delivered: 28<sup>th</sup> of March 2018

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**JUDGMENT**

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Nunkoo J

- [1] The applicant is seeking an order preventing the Respondent from selling a boat which is registered in the name of the Respondent. Applicant and Respondents are husband and wife.
- [2] In his affidavit Applicant has averred that they are living separately and they have the intention of divorcing. There is no divorce petition before the court as such.
- [3] It is a requirement of the law that there should be an action before the court on a serious issue to be tried or a judgment given by the court in order for an application for an injunction to be made. It is appropriate to refer to the Seychelles Code of Civil Procedure here which reads as follows:

304. *It shall be lawful for any plaintiff, after the commencement of his action and before or after judgment, to apply to court for a writ of injunction to issue to restrain the defendant in such action from the repetition or continuance of the wrongful act or breach of contract or injury of a like kind, arising out of the same contract or relating to the same property or right, and such writ may be granted or denied by the said court upon such terms as to the duration of the writ, keeping an account, giving security, or otherwise, as shall seem reasonable and just.*

[4] It is noted that the Applicant has entered a divorce petition before the court.

[5] In his affidavit Applicant is averring that he acquired a boat, known as *Lady Pear Riviera 42 Flybridge* in January 2017. The said boat was registered in the name of the Respondent. Applicant has averred that the price for the said boat was paid by the Applicant's company. He has attached copy of the bill of sale of the said boat in support of his averment. He is averring that the Respondent has advertised the boat for sale. He now wants an order from the court to restrain the Respondent from doing so.

[6] Under section 5 of the Provisional Orders Matrimonial Causes Act the Court has the power to make such orders which reads as follows:

*(1) The petitioner at the time of filing a petition for divorce, judicial separation, nullity of marriage and the respondent at any time after an appearance in any such case may make an application ex-parte supported by affidavit for provisional orders for the protection of his or her property or his or her rights in any property.*

[7] I therefore, in the exercise of the above powers conferred upon me and after having gone into the affidavit and being satisfied that there is urgency and there being an issue to be tried and having weighed the balance of convenience, do therefore issue an order in the form of an interim injunction to the Respondent not to sell the boat described as *Lady Pearl Riviera 42 Flybridge* until the final determination of the divorce and settlement of all matrimonial properties following same.

[8] The said interim injunction is issued at the peril and risk of the Applicant.

[9] A copy of this order is to be served on the Respondent.

Signed, dated and delivered at Ile du Port on 28<sup>th</sup> of March 2018

S.Nunkoo  
Judge of the Supreme Court