

IN THE SUPREME COURT OF SEYCHELLES

Civil Side no: MA156/2018

(Arising in MC99 of 2016)

[2018] SCSC 906

The Financial Intelligence Unit

Vs

Andy Onezime & ors

Heard: 10 October 2018

Counsel: Mr Kumar for the Applicant
Mr Shah for the 3rd Respondent

Delivered: 10 October 2018

ORDER ON MOTION

M. Twomey, CJ

1. This is an application by the Financial Intelligence Unit (FIU) for a disposal order pursuant to section 5 of the Proceeds of Crime (Civil Confiscation) Act 2008 (hereinafter POCA) that specified property named in a table attached to the application in the name of the Respondents, be transferred to the Republic of Seychelles. The Third Respondent has been named on this application solely because it has pledges in relation to the said specified property.
2. The table describes the property as follows:

Item	Description	Valued Amount
1	Honda Vezel Hybrid, registration date 16 th July 2015 with plate number S16530	SCR 375,000.00
2	Hyundai i10, registration date in October 2008 with plate number S18226	SCR 50,000.000

3	Hyundai i10, registration date in October 2008 with plate number S18229	SCR 60,000.00
4	Kia Picanto, registration date October 2008 with plate number S18503	SCR 50,000.00
5	Kia Cerato, registration date December 2008 with plate number S18506	SCR 20,000.00
6	Kia Picanto, registration date October 2008 with plate number S18505	SCR 60,000.00
7	Kia Cerato, registration date October 2008 with plate number S18507	SCR 65,000.00
8	Kia Picanto, registration date October 2008 with plate number S18502	SCR15,000.00

3. The notice of this motion was duly served on the Respondents.
4. The First and Second Respondents have filed a joint affidavit received by the Court this morning in which in anticipation of the disposal order being granted by the Court have stated that they will appeal the order if “grated” (sic) and that they also intend to appeal the section 4 order made by this Court on 2 March 2017.
5. They also depone that a final disposal order would defeat the purpose of justice and that it should not be “grated” (sic).
6. There seems to be nothing else intelligible in the averments in the Affidavit. I am truly at a loss to make head or tail of the objections to the application and how they relate to an injustice under sections 5 (8) and 5 (9) of POCA.
7. An interlocutory order was made under section 4 of POCA on the 2 March 2017 prohibiting the First and Second Respondents from disposing or otherwise dealing with the whole or any part of specified property or diminishing its value.

8. The facts disclosed in the application for the interlocutory order and the affidavit of the officer of the Applicant revealed criminal conduct including the offence of money laundering in Seychelles.
9. The present application is made for a final disposal order on the grounds that the interlocutory order has been in force for not less than 12 months as specified in section 5 (1) of POCA. There is also no appeal pending before the Court of Appeal in relation to the interlocutory order or any other order made under section 4 of POCA nor of any pending application made by or on behalf of any order under section 4(3) of POCA.
10. I am satisfied on the pleadings and the evidence before me, namely the affidavit of Phillip Moustache and the exhibits appended to the affidavit that the Order should issue.
11. Accordingly, I Order the disposal of the specified property pursuant to section 5 of POCA, namely 8 vehicles with registration numbers: S16530, S18226, S 18229, S18503, S 18506, S18505, S18507 and S18502.
12. I now appoint Phillip Moustache Receiver of the specified property.
13. I Order that the Receiver deduct such charges and costs applicable during the sale and/or transfer of the property specified in the order and to settle the pledges with the Third Respondent before effecting the final transfer to the Republic pursuant to section 5 of the POCA.

Signed, dated and delivered at Ile du Port on 10 October 2018.

M. Twomey
Chief Justice