

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 15/2018

[2018] SCSC 938

MRS BARBARA MATHILDA KAREN POIRET

1st Plaintiff

MS SYLVIA ELIZABETH PEIRA POIRET

2nd Plaintiff

versus

THE SEYCHELLES PENSION FUND

1st Defendant

MRS MARIE ANGE WAYE-HIVE

2nd Defendant

Heard: 11th October 2018

Counsel: Mr Serge Rouillon for plaintiffs

Mr Olivier Chang-Leng for defendants

Delivered: 11th October 2018

RULING

R. Govinden, J

[1] The Plaintiff in this matter has made an application in which he seek leave of this Court to hear and examine and to cause to be Cross examined a case worker, being a witness of

the Plaintiff who is currently in the UK. This is to be carried out via Skype connection. It is to be noted that the Chief Justice has already directed the siting of the Court of the 11th October 2018 to be held at the RAPPIC Centre, Ex Coast Guard Base, Boise de Rose, Mahe. However, the Chief Justice dispensation only stands with regards to the change of venue of the Supreme Court siting. The Plaintiffs still needs to justify why on the merits of the application the Court should exercise its discretion to have the witness evidence lead via the Skype system instead of him coming to Seychelles to testify viva voce before this Court. Counsel of the Plaintiffs said that the case worker whose name is Bashir Hameed is of a Jordan Nationality, and is living in the United Kingdom. The Plaintiffs claim that he is processing his Jordanian travelling documents through the United Kingdom Immigration Authorities have been problematic. Hence, his difficulties to travel to Seychelles. The Plaintiff's Counsel submitted that though arrangements has been made for his travel, it has proven to be impossible.

[2] Having scrutinised this oral application, I find that the law regarding examining and Cross examination of witnesses abroad, through Skype, in Civil matters is well settled in Seychelles. In the case of *FIU vs Contact lenses Limited and anors*. The learned Chief Justice ruled that the following conditions has to be fulfilled, before the Court exercise its discretion in considering whether or not to grant the application for a live television evidence.

1. The general rule is that evidence is adduce by hearing of oral evidence in Court
2. Evidence by live television link is therefore of an exceptional nature.
3. An order for giving evidence by live television link is discretionary, in exercising its discretion the Court may allow such produce where it is not reasonable for the person to be brought before the Court. And that it is desirable and practicable that evidence be given this way. And that such arrangement will not prejudice a party to the proceedings.

[3] In this matter Learned Counsel for the Defendants have no objection to the application. And I find that the application is not unreasonable and that is desirable and practical that evidence be given this way. And the arrangement would not prejudice any party to this

proceedings. Accordingly, I will use my discretion to allow the evidence of Mr Bahir Hameed to be led through Video Link at the RAPPIC Centre, Ex Coast Guard Base at Bois de Rose Avenue, subject to the relevant law of Civil Procedure and evidence existing in this jurisdiction.

Signed, dated and delivered at Ile du Port on 11th October 2018

R. Govinden , J
Judge of the Supreme Court