

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MA 252/2018

(arising in MC74 /2017)

[2018] SCSC 956

THE GOVERNMENT OF SEYCHELLES

Applicant

versus

CHOI KLANCHAIYAPHUM & ORS

Respondent

Heard: 18 October 2018

Counsel: Mr. D. Esparon for petitioner

Mr. O. Chang Lang for respondent

Delivered: 18 October 2018

ORDER

M. Twomey, CJ

[1] The Applicant is seeking an interlocutory order pursuant to Section 4 of the Proceeds of Crime (Civil Confiscation) Act (hereinafter POCA) prohibiting the Respondents or any person who has notice of the order from disposing of or dealing with or diminishing in value the sums of money, namely:

(a) SR 46,000 and USD 23,600 seized from the First Respondent.

(b) SR 33,000, USD 1000 and €1,500 seized from the Second Respondent.

(c) SR1000 seized from the Third Respondent.

(hereinafter referred to as specified property).

- [2] The application is brought by the Government of Seychelles by way of a Notice of Motion and supported by an affidavit sworn by Mr. Jan Celliers, Deputy Commissioner of Police. The Respondents are former employees of Indian Ocean Tuna Company (hereinafter IOT).
- [3] The Applicant seeks a further order under Section 8 of POCA, that is, the appointment of Mr. Jan Celliers as a Receiver of the specified property to hold the same until further orders of this court.
- [4] This application is brought as a first application since the amendment of POCA. The application is not in the form prescribed by the POCA Rules. However, these rules themselves need amending to take into account the said amendments. I am satisfied that notice was given to the Respondents and that they are legally represented. I am also informed that they are leaving Seychelles tomorrow.
- [5] The main ground for this application is that the Respondents are in possession or control of specified property that constitutes directly or indirectly, benefit from criminal conduct, or was acquired in whole or in part with or in connection with property that is directly or indirectly, constitutes benefit from criminal conduct. And that such property is in excess of R50, 000.00.
- [6] It appears from the supporting documentation of the Applicant, namely the statement of the HR Operations Manager of the IOT, that the three Respondents were engaged in some type of illegal money lending business and/or laundering money scheme whilst keeping the passports of the borrowers.
- [7] I have examined the documentary evidence annexed to Mr. Celliers's affidavit. I am satisfied that this information, of course, together with the unchallenged belief evidence of Mr Celliers that there are reasonable grounds at this stage to suspect that the specified

property constitutes directly or indirectly, benefit from criminal conduct, or was acquired in whole or in part with or in connection with property that is directly or indirectly, constitutes benefit from criminal conduct.

[8] I am also satisfied that there is no risk of injustice to the Respondents or any person if I make the order sought as they may at any stage while the order is in operation cause it to be discharged or varied by satisfying the Court that the property does not constitute directly or indirectly benefit from criminal conduct or was acquired or constitutes benefit from criminal conduct.

[9] I, therefore, allow this application and issue an interlocutory order prohibiting the disposal of, dealing with or diminishing in value of the specified property. I further appoint Mr. Celliers to be the Receiver of the said specified property to manage, keep possession or dispose of the same or otherwise deal with any property in respect of which he is appointed.

[10] Costs of these proceedings will abide by the final outcome of the proceedings in relation to the specified property in this matter.

Signed, dated and delivered at Ile du Port on 18th October 2018

M. Twomey, CJ
Chief Justice