

SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC 286
CM105/2018

In the matter between:

HATTAM MONTHUSHIMIRA
(rep. by Clifford André)

1st Applicant

IMAM TARANI
(rep. by Clifford André)

2nd Applicant

and

THE REPUBLIC
(rep. by David Esparon)

Respondent

Before: Burhan J
Heard: 29 March 2019
Delivered: 08 April 2019

ORDER

Application dismissed. Having ordered the release of the vessel in this case, to hold an inquiry in respect of the seaworthiness of the vessel and make further orders in respect of ordering the placing of provisions on the said vessel for the captain and the crew prior to its departure, is not within the purview or ambit of this Court.

BURHAN J

[1] On the 5th of March 2019, Learned Counsel Mr. Andre filed an application setting out that the vessel Payam Al Mansur which was released by successive orders of the Supreme Court be released to his clients, in the state it was at the time of arrest which is in working condition so as to allow the crew to sale to Iran and deliver the said vessel. The further request is that adequate provisions be placed on the vessel.

- [2] In reply the respondents by way of affidavit dated 20th March 2019 stated that the said vessel had been arrested with a large quantity of controlled drug on it namely Heroin 97,945.1 (pure quantity 65,211.41) and 784.6 of opium. It is further stated that the said vessel was in the safe custody of the NDEA while it was being detained. The affidavit of Marcus Payet another ANB officer stating that since seizing the vessel as an exhibit there was a leak coming from the main shaft to the engine and the agents in charge of maintenance had to pump water 3 times a week from the engine. The affidavit further states that 3 to 4 weeks after the seizure the engine failed to start as it was not in a good state of repair.
- [3] Learned Counsel for the respondents further submitted that the court was now functus officio and therefore could not make orders as requested by the applicants.
- [4] I have considered the facts contained in the affidavits and the submissions made by both counsel. This Court has already made an order to release the said vessel.
- [5] I find that having already ordered the release of the vessel in this case, to hold an inquiry in respect of the seaworthiness of the vessel and make further orders in respect of ordering the placing of provisions on the said vessel for the captain and the crew prior to its departure, is not within the purview or ambit of this Court. Having ordered the release of the vessel, this Court will not make any further orders in respect of same.
- [6] The application is accordingly dismissed.

Signed, dated and delivered at Ile du Port on 08 April 2019

Burhan J