

SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC 755
MA 268/2019
(Arising in CS 117/2019)

In the matter between
MRS LESLEY HOWARD
(rep. by Rene Durup)

Petitioner

and

GILOPI INTERNATIONAL INC
(Unrepresented)

Respondent

Neutral Citation: *Howard v Gilopi International* (MA 268/2019) [2019] SCSC 755
Before: R.Govinden
Summary: Exparte application for provisional seizure of moneys belonging to the Defendant in the hands of a third party order granted.
Heard: [4 September 2019]
Delivered: [4 September 2019]

ORDER

GOVINDEN J

- [1] This is an application filed by the Plaintiff under Section 280 of the code of Civil Procedure. In the petition the Plaintiff seeks and order to attach provisionally the moneys belonging to the Defendant in the main suit which are in the hands of third parties.
- [2] By a plaint dated the 21st day of August 2019, the Plaintiff has commence the suit in CS 117 of 2019 claiming the sum of 165,650 pound sterling (GBP 165,650) excluding interest from the Defendant, for loss and damage, which the Plaintiff allegedly suffered as a result of the fraudulent actions of the Defendant. The suit is still pending before this Court for determination. The Plaintiff claim that the transfer of the funds was made

pursuant to advice and instructions obtained from persons purporting to be investment experts and that this was an investment into a “safe” High Fidelity Private Bond paying 7.1% annual interest upon the completion of its 5 year term. Upon completion of the 5 year term despite repeated request the Plaintiff alleged that the Defendant had not paid the 7.1% interest per annum nor returned the funds back to the Plaintiff. The Plaintiff alleged that the actions of the Defendant are fraudulent in that;

1. The purported investment experts have disappeared and no longer responds to the Plaintiff.
2. Other investments in the USA which the husband of the Plaintiff made pursuant to the advice the purported investment expert have also been found to be fraudulent by the enforcement authorities of the USA.
3. The Defendant never communicated nor paid the interest nor returned the funds to the Plaintiff and the Defendant is struck off. Therefore, the Plaintiff has now come before this Court with the present petition for an urgent order attaching any moneys belonging to the Defendant with or due from a third party, namely the Al Salam Bank, Seychelles of Victoria, Mahe, Seychelles.

[3] Upon careful perusal of the petition and the plaint I am satisfied, that the Plaintiff has a bona fide claim against the Defendant in this suit. From the averments on records, it appears that there is a clear danger that the Defendant may avoid satisfaction of Judgment if the Judgment is given in favour of the Plaintiff.

[4] I therefore, believe that unless an order of provisional attachment is granted, the Plaintiff would not be able to realise the fruits of the potential Judgment, if given in his favour in the original suit. I find therefore, that this is a proper case, in which the Court should make an urgent exparte order of provisional attachment of the moneys.

[5] In view of all these factors I hereby make an order attaching provisionally any money and all moneys but not exceeding the sum of 165,650 pound sterling due to or belonging to the Defendant which are in the hands of or due to, or belonging to the Defendant held with the Al Salam Bank of Victoria, Mahe, Seychelles.

- [6] This order for provisional attachment is made pending the final determination of the suit in Civil Side number 117 of 2019 or until further order of this Court.
- [7] In pursuant to this order I direct the Registrar of the Supreme Court to issue a warrant for the provisional attachment of the moneys accordingly.
- [8] A copy of this order shall be served on the Defendant along with a copy of the application of learned Counsel in this case.
- [9] A copy of this order shall also be served upon Mr Durup learned Counsel for the Plaintiff in this matter.
- [10] I also direct the Registrar to ensure that a copy of the order is served upon the Governor of the Central Bank of Seychelles, Ms Caroline Abel.

Signed, dated and delivered at Ile du Port on 4th September 2019

Govinden J