

IN THE SUPREME COURT OF SEYCHELLES

Reportable

[2020] SCSC 449

MC31/2020

GOVERNMENT OF SEYCHELLES

(rep. by Ms. Thomson)

APPLICANT

and

DARIUS DHANJEE

(rep. by Mr. Nichol Gabriel)

RESPONDENT

Neutral Citation: *Government of Seychelles vs Darius Dhanjee (MC31/2020) [2020] SCSC 449*

Before: **Twomey J**

Summary: Section 4 interlocutory application – reasonable belief

Heard: 26 June 2020

Delivered: 15 July 2020

ORDER

An Interlocutory order is issued prohibiting the disposal of, dealing with or diminishing in value the specified property.

TWOMEY J

[1] The Applicant is seeking an interlocutory order pursuant to section 4 of the Proceeds of Crime (Civil Confiscation) Act (POCA) prohibiting the Respondent or any person who has notice of the order from disposing of or dealing with or diminishing in value the sums of money, totalling SCR 201,350 in dominations as set out in the Annexure to this Order and hereinafter referred to as specified property, seized at the Respondent’s residence at Roche-Bois, Mahe. The application is brought by way of notice of motion and supported by an affidavit sworn by Superintendent Hein Prinsloo of the Financial Crime Investigation Unit.

- [2] The Applicant seeks a further order under section 8 of POCA, that is, the appointment of Superintendent Hein Prinsloo as a Receiver of the specified property to hold the same until further orders of this court. The Respondent was served with the application and an entry of appearance was filed by Counsel for the Respondent who informed the court that on instructions he was not objecting to the application filed.
- [3] The main ground for this application is that the Respondent on 22 April 2020 was found 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.
- [4] It is the Applicant's belief that the money, digital scales and heroin with a total weight of 176.61 grams recovered by the Anti-Narcotics Bureau (ANB) officers in the bedroom of the house in which the Respondent was residing and in the hills nearby belonged to him. In any case, the Respondent claimed that the money was his. His control over the money and financing of the financing of drug trafficking is also clearly shown by the fact that the money was organised in bags of the same denominations namely, SCR 500, SCR 200, SCR 100, SCR 50 and SCR 25 notes.
- [5] The fact that the money was hidden in the room and the hills is also a clear indication that the Respondent did not want to deposit the money in a legitimate bank account as it originated from the sale of drugs or some other illegitimate source. His offer to bribe the officers is further proof of the fact that the money was from illegal sources.
- [6] Section 10 of MODA provides that a person who organises, manages or finances an offence under section 5 (importation and exportation), section 6 (manufacturing and cultivation), section 7 (trafficking) and section 9 (possession with intent to traffic) commits an offence of trafficking and is liable on conviction to the penalty specified for an offence under section 7, that is trafficking.
- [7] It is also the averment of Superintendent Prinsloo that the Respondent informed the ANB that he was an unregistered skipper but due to the restriction of movement of individuals

and boats during the COVID -19 pandemic it is highly unlikely that the money seized came from his earnings as a skipper. In any case, the Seychelles Maritime Safety Authority and the Seychelles Fishing Authority have both confirmed that the Respondent is not a registered skipper on their databases.

[8] Further, after a search was made at banks in Seychelles, no record of any bank accounts were found in the name of the Respondent. Records at the Seychelles Revenue Commission indicate that the last recorded employment of the Respondent was at the Hilton Labriz Hotel until 28 February 2009.

[9] The Respondent has also not objected to the freezing application.

[10] I have examined the documentary evidence annexed to Superintendent's Prinsloo's affidavit, including the affidavit of Sub Inspector Johnny Malvina, together with the Exhibits. I am satisfied that this information, together with the unchallenged evidence show 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.

[11] 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 Superintendent Prinsloo to be the Receiver of the said specified property and to hold the same in an interest bearing account until further orders of this court. Costs of these proceedings will abide the final outcome of the proceedings in relation to the specified property in this matter.

Signed, dated and delivered at Victoria this 15 day of July 2020

M TWOMEY J