

Reportable 754
[2020] SCSC ...
MC 49/2020

In the matter of:

THE GOVERNMENT OF SEYCHELLES
(rep. by David Esparon)

Applicant

and

Malekmohammad Mohtashaminya
(Not present/Unrepresented)

Respondent

Neutral Citation: *The Government of Seychelles v Malekmohammad Mohtashaminya* (MC 49/2020) [2020] SCSC 754 13 October 2020)

Before: Burhan J

Heard: 13th October 2020

Delivered: 13th October 2020

ORDER

- a) I allow this application and issue an interlocutory order prohibiting the disposal of, dealing with or diminishing in value of the specified property set out in Annexure 1 namely;

26.4 m Fishing Dhow "Payam Al Mansoor" with Registration No 4/3689 Valued at SCR 500,000.00 to 600,000.00

- b) I further order and appoint under section 8 (1) of Proceeds of Crime (Civil Confiscation) Act 2008 as amended, Superintendent Hein Prinsloo, as a Receiver of the specified property to manage, to keep in possession, hold the same until further orders from court or dispose of or otherwise deal with the specified property in respect of which he is appointed receiver with the court's directions.
- c) The aforementioned orders are to be in force until the determination of any subsequent application or disposal order in relation to the aforementioned property. I make further order that a copy of this order be served on the respondent or his attorney Mr. Clifford Andre.

RULING

BURHAN J

- [1] This is an inter-partes application under section 4 of the Proceeds of Crime Act (Civil Confiscation) Act 2008 (POCA 2008) as amended, prohibiting the respondent or any other person specified in the order from disposing of or otherwise dealing with whole or part of the property set out in the table appended to the motion.
- [2] As per the proceedings of 23rd September 2020 the judge hearing the case on that date Judge Govinden on the said date had granted an ex- parte hearing to the applicant on the basis that the notice of motion for an interlocutory order had been duly served upon the chamber of Mr. Andre who had failed to appear.
- [3] The applicant seeks the following reliefs.
- a) For an Interlocutory Order pursuant to section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended prohibiting the Respondents or any other person specified in the order from disposing of or otherwise dealing with whole or any part of the property set out in the table appended to Annexure 1 of the Notice of Motion;
 - b) That notice of such order to be given to the Respondents or any other person directed by the court;
 - c) For a further order under section 8 (1) of Proceeds of Crime (Civil Confiscation) Act 2008 as amended, that Superintendent Hein Prinsloo, or other such person directed by this Court, be appointed as a Receiver of the specified property to manage, to keep in possession, hold the same until further orders from court or dispose of or otherwise

deal with the specified property in respect of which he is appointed receiver with the court's directions pursuant to section 8 of POCA 2008.

- [4] I have considered the details contained in the affidavit of Superintendent Hein Prinsloo ~~dated~~ who is attached to the Financial Crime Investigative Unit (hereinafter referred to as the FCIU) ~~and the affidavit dated 31st July 2020~~ and the appended documentary evidence. It is clear that the investigating officers have conducted detailed investigations in respect of the specified property.
- [5] I am satisfied on the information contained in the affidavit specifically in paragraphs 9 to 15 and paragraph 20 which proceedings took place in this Court.
- [6] Having considered the facts contained in the affidavit as set out above including paragraphs 18 and 19 together with all supporting annexures, I am satisfied that there are reasonable grounds and further evidence to believe that the specified property set out in Annexure 1 is in the possession and control of the Respondent Malekmohammad Mohtashamina and constitutes, directly or indirectly, benefit from criminal conduct. I am also satisfied that the value of the impugned property is not less than SCR 50, 000 on consideration of the valuation annexed HP/12.
- [7] I therefore make the following order:
- a) I allow this application and issue an interlocutory order prohibiting the disposal of, dealing with or diminishing in value of the specified property set out in Annexure 1 namely;

26.4 m Fishing Dhow "Payam Al Mansoor" with Registration No 4/3689 Valued at SCR 500,000.00 to 600,000.00
 - b) I further order and appoint under section 8 (1) of Proceeds of Crime (Civil Confiscation) Act 2008 as amended, Superintendent Hein Prinsloo, as a Receiver of the specified property to manage, to keep in possession, hold the same until further

orders from court or dispose of or otherwise deal with the specified property in respect of which he is appointed receiver with the court's directions.

- c) The aforementioned orders are to be in force until the determination of any subsequent application or disposal order in relation to the aforementioned property. I make further order that a copy of this order be served on the respondent or his attorney Mr. Clifford Andre.

Signed, dated and delivered at Ile du Port on 13th of October 2020.



Burhan J