

## SUPREME COURT OF SEYCHELLES

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### Reportable

[2020] SCSC 762

XP130/2020

In the matter of Vijay Construction ( Proprietary ) Limited

And

In the matter of the Companies Act 1972 and the Insolvency Act 2013      **Petitioner**

(rep. by S. Rajasundaram)

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**Neutral Citation:** *Ex Parte Vijay Construction Pty Ltd* XP130/2020 [2020] SCSC 762

	15 October 2020
<b>Before:</b>	Govinden J
<b>Summary:</b>	Application to “hold on” to the prayers in the winding up petition is refused.
<b>Heard:</b>	15 October 2020
<b>Delivered:</b>	15 October 2020

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### ORDER

Application to “hold on” to the prayers as averred and sought for in the affidavit would amount to an abuse of the process of this Court.

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### RULING

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#### GOVINDEN J

- [1] The Petitioner in this matter has, through its representative, Mr. Vijay Patel, a Director of the Petitioner, filed an affidavit dated the 14<sup>th</sup> of October 2020, in which he makes a prayer that this Court “hold on” to the relief prayed for in his Petition dated the 5<sup>th</sup> of October, 2020 applying for winding up for the Petitioner. No reasons are given in the said affidavit for this prayer. The Deponent further avers that the Ruling pending in a separate application filed in this matter for stay of all proceedings and actions filed against the Petitioner, which was fixed to be delivered today, be rendered.

[5] The above findings has led this Court to the irresistible conclusion that granting the prayers, as averred and sought for in the said affidavit would amount to an abuse of the process of this Court. Section 102 (1) orders under the Act are meant to be interim orders pending a Winding up Order under the Act. They are not meant to be an open ended right of a judgment debtor to stay judicial process or claims against it.

[6] Accordingly, the prayer sought for in the said affidavit cannot be granted by this Court.

Signed, dated and delivered at Ile du Port on the 15<sup>th</sup> October 2020.

A handwritten signature in black ink, appearing to be 'Govinden J', written over a horizontal line.

Govinden J

Judge