

IN THE SUPREME COURT OF SEYCHELLES

Reportable

[2022] SCSC 1052

MA 270/2022

Arising in CS23/2019

In the matter between:

EASTERN EUROPEAN ENGINEERING LTD

(rep. by B. Hoareau)

Petitioner

and

VIJAY CONSTRUCTION PTY LTD

(rep. Mr. B. Georges)

Respondent

Neutral Citation: *Eastern European Engineering Limited v Vijay Construction Pty Limited*
(MA270/2022) [2022] SCSC 1052 (02 December 2022).

Before: Carolus J

Summary: Motion to extend time for sale of movable property seized in execution –
Section 256 Seychelles Code of Civil Procedure

Heard: 28 November 2022

Delivered: 02 December 2022

ORDER

The period prescribed under section 256 for the sale of any movable property seized in execution to satisfy the judgment debt in CS23/2019, where such period would end before 31st January 2023, is extended to 31st January 2023.

RULING

CAROLUS J

- [1] Judgment was delivered in CS 23/2019 on 30th June 2020 in favour of the applicant Eastern European Engineering Limited (“EEEL”) (plaintiff in CS 23/2019). In terms of the judgment the

respondent Vijay Construction Pty Limited (“VIJAY”) (defendant in CS 23/2019) was ordered to pay EEEL various sums of money, amounting in excess of Euro twenty million plus interest.

- [2] EEEL applied for execution of the judgment on 17th August 2020. The appeal lodged by VIJAY against the judgment was dismissed by the Court of Appeal on 21st October 2022. There is currently no order for stay of execution of the judgment and the judgment is valid and enforceable. By letter dated 25th October 2022 the attorney for EEEL requested execution of the judgment on the basis of the application of 17th August 2020.
- [3] In his affidavit in support of this Notice of Motion Vadim Zaslonov, a director of EEEL states that as a result of execution of the judgment a number of movables comprising mainly motor vehicles have been seized and that the first batch of vehicles were seized on 3rd November 2022. He states that despite repeated requests by EEEL’s attorney to the Registrar to cause the movables to be sold within one month from the date of seizure, the Registrar has failed to cause the usher to proceed with the sale. In terms of the Notice of Motion EEEL therefore seeks an order extending the period for the sale of movables seized by virtue of a warrant of execution issued by the Registrar, beyond one month from the date of seizure of the movables.
- [4] Counsel for VIJAY Mr. Georges, in principle, has no objections to the application being granted but pointed out that EEEL has not provided any reason as to why the extension of time for sale of the property seized should be granted.
- [5] Mr. Hoareau for EEEL states that he relies upon section 256 of the Seychelles Code of Civil Procedure to make the application, which provides –

Movable property seized to be sold within one month from seizure

256. Movable property seized in execution shall be sold by the usher within one month from the date of the seizure, unless the court directs otherwise. If the judgment creditor at whose instance the movable property was seized neglect to cause such property to be sold within the period of one month aforesaid or to obtain an order of the court extending the period within which such sale is to take place, the person whose property has been seized may apply to the court by motion made ex-parte to release such property from seizure.

- [6] It seems that the warrant of execution has not been wholly executed in that only some but not all movable property has been seized in execution. Mr Hoareau stated that given that the first batch of vehicles were seized on 3rd November 2022, in view of the time frame of one month given under section 256 for sale of the movable property seized in execution, time is running out for the sale of such vehicles, hence the reason for the present application.
- [7] He also states that that the Registrar has not replied to his letter requesting for the property already seized to be sold, but he understands that the Registrar is under the impression that the time limit of one month prescribed by section 256 starts running upon completion of execution of the warrant of execution, that is when all the judgment debtor's movable property to be seized has been so seized. Once the last of the movables have been seized the sale can be effected within a period of one month from the last date that property was seized. Mr. Hoareau is of the view that the period of one month starts running from the date that a movable has been seized for that specific movable. Hence he states that the sale of the vehicles seized can be done in batches, so that those seized at an earlier date can be sold first within the one month prescribed, whether or not seizure of all the movable property has been completed. Mr. Hoareau feels that the Registrar needs directions from the Court on that point.
- [8] There does not seem to be anything in the Act which prevents the sale of movable property seized in execution even if execution is not complete, as long as the prescribed procedures are complied with. Even if property seized is sold, execution can continue with the seizure of other property as long as the warrant of execution is still valid. In fact the longer some types of property remain unused the more they diminish in value. Storage of the property is also important in that regard. However this is not the purpose of this application and given that the sale of property seized in execution falls within the responsibility of the usher and the Registrar, they are the ones who have to decide on an assessment of all relevant factors including practicability when the sale of seized property will take place provided of course relevant legal provisions are complied with.
- [9] The first batch of vehicles were seized on 3rd November 2022 and under section 256 have to be sold by the 3rd December 2022. Given the time that has already lapsed since the process of

execution commenced, that there is a time limit of one month for sale of the vehicles to be effected and that there must be prior publication of the sale, I am satisfied that the period of one month for the sale of property seized already should be extended. Mr. Hoareau has indicated that the period for the sale of the property should be extended to the end of January 2023. Mr Georges has not objected to the same.

- [10] In the circumstances and on the basis of the above I grant the motion. Accordingly the period prescribed under section 256 for the sale of any movable property seized in execution to satisfy the judgment debt in CS23/2019, where such period would end before 31st January 2023, is extended to 31st January 2023.

Signed, dated and delivered at Ile du Port on 2nd December 2022



Carolus J