

SUPREME COURT OF SEYCHELLES

Reportable
[2022] SCSC 119
MA 225/2021

In the matter of:

JEAN- FRANCOIS LAFORTUNE
(Represented by Mr John Renaud)

Judgment Creditor

And

NISREEN ABDUL MAJID
(Represented by Mr Olivier Chang-Leng)

Judgment Debtor

Neutral Citation:	<i>Lafortune v Majid</i> (MA 225/2021) [2022] SCSC 119 (14 th February 2022)
Before:	B. Adeline, Judge
Summary:	Issue of summons to show cause under Article 251 of the Seychelles Code of Civil Procedure
Heard:	19 th January 2022
Delivered:	14 th February 2022

ORDER

Summons to show cause – Article 251 of the Seychelles Code of Civil Procedure – Application not supported by affidavit of facts – Application is dismissed for failing short of the requirement that the petition must be supported by affidavit.

RULING

ADELINE J

[1] This Ruling arises out of an application, filed in Court on the 6th October, 2021, by one Jean-Francois, Lafortune of Cascade, Mahe, Seychelles (“the judgment creditor”) by which application, the Judgment Creditor seeks to enforce a Judgment of the Supreme

Court in CS66/2016, delivered in his favour on the 8th February 2018, against one Nisreen, Abdul, Majid (“the judgment debtor”) of Beau Belle, Mahe ,Seychelles

[2] The application contains an averment, that as per the said Judgment, the judgment creditor was awarded a total sum of SCR 300,000(“the judgment debt”) which sum was to be paid to him by the judgment debtor.

[3] It is averred by the judgment creditor, that the Judgment debtor has paid SCR 97,000 only, which sum he received, and that there is an unpaid balance due.

[4] The judgment creditor seeks to enforce the Judgment, by praying, that the Court orders a summons to be issued by the Registrar of the Supreme Court “calling upon the judgment debtor to appear in Court and show cause why she should not be committed to civil imprisonment in default of the satisfaction of the judgment of the Court”.

[5] In answer to the application, Learned counsel for the judgment debtor, Mr Olivier Chang-Leng, raised a *plea in limine litis* that reads as follows;

“The application is not supported by an affidavit of facts. It is accordingly defective and bad in law for failing to comply with Section 251 of the Seychelles Code of Civil Procedure.”

[6] The judgment debtor prays this Court to dismiss the application with cost.

[7] Counsel represented the parties opted not to make any submissions, in writing or otherwise.

[8] On the face of the pleadings, clearly, the judgment creditor is seeking to enforce the judgment under Article 251 of the Seychelles Code of Civil Procedure, (“the SCCP”). This requires, an application to the Court by petition, supported by an affidavit of facts.

[9] Article 251 of the SCCP reads;

“A judgment creditor may at any time, whether any other form of execution has been issued or not, apply to the Court by petition, supported by an affidavit of facts, for the arrest and imprisonment of his judgment debtor and the Judge shall

there upon order a summons to be issued by the Registrar, calling upon the judgment debtor to appear in Court and show cause why she should not be committed to civil imprisonment in default of satisfaction of the judgment order”.

- [10] The procedure for arrest and imprisonment of the judgment debtor, as provided for under Section 251 of the SCCP, must be strictly adhere to. Hence, the application should be by way of petition supported by an affidavit of facts.
- [11] There is no affidavit attached to the application in support, and counsel for the judgment creditor made no submission in answer to the *plea in limine litis* raised by counsel for the judgment debtor.
- [12] In the final analysis, clearly, the application should have been supported by an affidavit in line with the requirements provisions of Article 251 of the SCCP. It is not, and therefore, the *plea in limine litis* succeeds. The application is therefore dismissed for failing short of the legal requirement that the petition must be supported by affidavit.
- [13] Costs are awarded to the Respondent.

B. Adeline, Judge