

**SUPREME COURT OF SEYCHELLES**

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[2022] SCSC 7.26  
XP 214/2022

In the ex parte matter of:

**THE GOVERNMENT OF SEYCHELLES**  
**(herein represented by the Attorney General)**  
*(rep. by Mr. Steven Powles / Mr. Edmund Vickers )*

**Applicant**

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**Neutral Citation:** *The Government of Seychelles* (XP214/2022) [2022] SCSC 7.26 (23 August 2022)  
**Before:** Burhan J  
**Summary:** Application under Section 3 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended. Section 12 of Mutual Assistance in Criminal Matters Act.  
**Heard:** 01 August 2022 and 19 August 2022  
**Delivered:** 23 August 2022

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**ORDER**

I make the following orders:

- a) I allow this application and issue an interim order under Section 3 of POCA prohibiting the disposal of, dealing with or diminishing in value of the specified property set out in the Table to the Notice of Motion as described in paragraph 2 herein.
- b) I further appoint Superintendent Neville Thaver to be the Receiver of the said specified property and to hold the same until further orders from this Court.
- c) I further make order that a copy of this order be served on Fahreen Rajan.
- d) I make further order that a copy of this order be served on the Attorney General to take the necessary steps under the Mutual Assistance in Criminal Matters Act 2022.

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**ORDER**

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**BURHAN J**

[1] This is an ex-parte application under Section 3 of the Proceeds of Crime (Civil Confiscation) Act 2008 (POCA) as amended. The Applicant seeks the following reliefs.

- (1) That this Ex-Parte application is listed and heard as a matter of urgency as per rule 7 (1) of the Proceeds of Crime (Civil Confiscation) Act as amended.*
- (2) For an Interim Order pursuant to section 3 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended prohibiting the Respondent 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 to this Notice of Motion.*
- (3) That on the making of an order under (1) above, Superintendent Neville Thaver or such other person as this court shall direct be appointed as Receiver over all or part of the said property to manage, keep possession or dispose of, or otherwise deal with any other property in respect of which he is appointed in accordance with the court's directions, pursuant to section 8 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended; and*
- (4) For an order providing for Notice of any such order to be given to the Respondent or any other person directed by the court;*

*(5) Such further or other order as the court shall deem just and proper in all circumstances in this case.*

- [2] I have considered the details contained in the affidavit of Superintendent of Police and Commanding Officer of the Financial Crime Unit Mr. Neville Thaver dated 28 July 2022. It is clear on perusal of the said affidavit and annexures attached therein that Mr. Craig Gibson attached to the Anti-Corruption Commission Seychelles (ACCS) has conducted detailed investigations in respect of the specified property set out in the Table to the Notice of Motion i.e. 4,954,491 (four million nine hundred and fifty four thousand and four hundred and ninety one) ordinary shares in AP Towers Holdings PTE Limited (Company Registration No 201937707D, Singapore) valued as at February 2021 at US\$ 3.84 million SCR 53,376,000.00.
- [3] Learned Counsel Mr. Powles moving for the aforementioned orders, relies on the contents of the affidavits filed by Superintendent Neville Thaver and Mr. Craig Gibson and the written submissions of Edmund Vickers QC dated 29<sup>th</sup> July 2022, in order to establish that there are clearly reasonable grounds for suspecting that the said specified property referred to above in the Table to the Notice of Motion, constitutes benefit accrued from criminal conduct, namely Money Laundering and to establish that the property in question set out in the Table of the Notice of Motion has a total value of more than SCR 50,000.
- [4] At paragraph 6 of the said affidavit SP Thaver states that his belief is based on and is a result of discussions of investigations done by Mr. Craig Gibson attached to the Anti-Corruption Commission Seychelles (ACCS). The investigations he states reveals that the shares referred to in the Table to the Notice of Motion belong to one Fahreen Rajan (nee Lahda, hereinafter also referred to as the Respondent).
- [5] SP Thaver further states that at present the said Fahreen Rajan is currently charged with two offences in her case bearing reference CR. CO 08 of 2022 which is currently before the Supreme Court. The offences with which she is charged are Forgery contrary to Section 333 and 335 of the Penal Code and in the alternative Conspiracy to commit Forgery, contrary to Sections 333 and 381 of the Penal Code. It is further stated that the said Fahreen Rajan is charged in Count two with Conspiring together with one Mukesh Valabhji and

- Laura Valabhji to commit Forgery. The forged or falsified document in both counts is a document purported to be a loan agreement. Investigations against Mukesh and Laura Valabhji are still ongoing.
- [6] SP Thaver in his affidavit and relying on the affidavit filed by Mr. Gibson in respect of his investigations proceeds to explain in his affidavit, the history of the transactions where initially the shares were to be purchased by Mr. Mukesh Valabhji who was to purchase four million shares in an investment opportunity with Apollo Tower Myanmar. The shares were to be purchased in the name of the company named Silver Cap Ltd whose ultimate beneficial owner was the said Mukesh Valabhji. The investment opportunity was overseen by a company called Overseas Private Investment Corporation (OPIC). The said company has since changed its name to International Development Financial Corporation (IDFC). However at the time of the original purchase OPIC observed that Mukesh Valabhji had not satisfied the KYC (know your customer requirement) necessary for the share purchase agreement to take place.
- [7] It is further averred that in order to purchase the said shares Fahreen Rajan (nee Lahda) became a front for the said Mukesh Valabhji in the purchase of the said shares. The source of funds used to effect the said purchase by Fahreen Rajan originated from CHF Investments, an entity beneficially owned by the said Mukesh Valabhji.
- [8] Subsequently as there was nothing on file explaining from where the funds for purchase of the shares was received by Fahreen Rajan, she was asked to explain her source of funds for the said purchase. It was at that time a loan agreement surfaced. The said loan agreement was drafted between Mukesh Valabhji and Fahreen Rajan and the assistance was obtained from Mukesh Valabhji's wife a lawyer and notary by profession. The loan agreement was purported to show that Fahreen Rajan had been loaned US\$ 4 million by Capital Management and Consultancy Ltd her then employer which company too was owned and operated by Mukesh Valabhji. However no such loan transaction had in actual fact taken place, a fact admitted by Fahreen Rajan in her under caution statement.
- [9] On the 20<sup>th</sup> of January 2022, as per the affidavit filed by SP Thaver and Mr. Gibson, investigators from the ACCS executed a search warrant at the offices of Intelvision and

pursuant to the warrant recovered emails showing a significant number of communications between Mr. and Mrs. Valabhji and Fahreen Rajan. Emails in respect of the transactions referred to above dating back to 2016 were recovered. Investigations done in respect of the emails revealed a conspiracy between Fahreen Rajan and Mukesh and Laura Valabhji to purchase the shares using Fahreen Rajan to conceal the fact that the beneficial owner is actually Mukesh Valabhji.

- [10] The aforementioned loan agreement prepared by Laura Valabhji on the 12<sup>th</sup> of May 2017 was sent to one Sajiv Ahuja who was from Tillman Global who had set up the original Apollo share purchase in 2016. The details of the purported loan agreement are set out in paragraph 24 of the affidavit of SP Thaver.
- [11] Following the arrest of Fahreen Rajan on the 21<sup>st</sup> of January 2022, she was interviewed in respect of the purchase of shares from Apollo Tower. Her account indicated that Mukesh Valabhji had funded the loan on the basis that it was for her personal investment. However the loan was never paid back. On the 6<sup>th</sup> of June 2022, Fahreen Rajan volunteered to provide a witness statement and admitted that the loan agreement was made specifically to satisfy the ongoing KYC issues regarding the purchase of the shares. She further admits that she had not taken a loan from Mukesh Valabhji or Capital Management and Consulting Ltd and she was not under an obligation to return any funds either. She further admits that the loan agreement is false and that although she is the legal owner of the shares Mukesh Valabhji is the beneficial owner. It is the contention of the Applicant the shares have been obtained by way of a criminal conspiracy and false representations and the shares dishonestly obtained thereby amounting to benefit from criminal conduct as set out in Section 2 and Section 3 (9) of the Anti-Money laundering and Countering the Financing of Terrorism Act 2020.
- [12] It is further set out in paragraph 44 of the affidavit that on the face of documentation taken into custody and Fahreen Rajan's own admission, she has made a false declaration in the information provided to OPIC which is an offence in the United States and in addition, is facing charges of forgery and Conspiracy to commit forgery in the Seychelles. It is clear

therefore that the said Fahreen Rajan is in possession of property which value is not less than SCR 50,000.00 and constitutes directly or indirectly benefit from criminal conduct.

- [13] I note that the contents of the affidavit of SP Thaver is supported by the facts set out in the affidavit of Mr. Craig Gibson and the annexures of his investigation tendered to Court in a separate bundle which include the statements of Fahreen Rajan and numerous emails and documents taken into custody regarding the share transfers.
- [14] At the request of Court a further submission dated 19 August 2022 was tendered by learned Counsel for the Attorney General Mr. Edmund Vickers referring to Section 19 of the POCA dealing with Consent Orders which states that the Court may, pursuant to the consent of all parties make any order under the POCA and as regards disposal a disposal order, and may make the disposal order subject to such terms and conditions it may specify. Accordingly the consent of the Respondent Fahreen Rajan was annexed to the said submission.
- [15] Learned Counsel Mr. Vickers further submitted that in terms of the Section 12(1) (a) (b) of the Mutual Assistance in Criminal Matters Act 2022 (MACMA), the Attorney General may request a foreign State to make arrangements for the enforcement and satisfaction of a Seychelles confiscation order or make arrangements with the foreign State to restrain dealing in any such property against which the confiscation order may be enforced. Learned Counsel also referred to the definition contained in Section 2 of MACMA where the definition of confiscation order includes a confiscation order within the meaning of Proceeds of Crime (Civil Confiscation) Act CAP 298. He submitted that the disposal order in the POCA could therefore be interpreted to be the confiscation order referred to in the MACMA.
- [16] Giving due consideration to all the aforementioned facts set out in the said affidavit and the submissions of learned Counsel for the Applicant, this Court is satisfied that there are reasonable grounds to believe the Respondent Fahreen Rajan is in possession of specified property that is the property set out in Table to the Notice of Motion and that the said property constitutes direct or indirect benefit from criminal conduct, namely Money Laundering contrary to Section 3(1) (b) of the Anti-Money Laundering and Countering the

Financing of Terrorism Act 2020. This Court is further satisfied that that the total value of the property mentioned in the said Table is over SCR 50,000.00.

[17] I therefore make the following orders:

- a) I allow this application and issue an interim order under Section 3 of POCA prohibiting the disposal of, dealing with or diminishing in value of the specified property set out in the Table to the Notice of Motion as described in paragraph 2 herein.
- b) I further appoint Superintendent Neville Thaver to be the Receiver of the said specified property and to hold the same until further orders from this Court.
- c) I further make order that a copy of this order be served on Fahreen Rajan.
- d) I make further order that a copy of this order be served on the Attorney General to take the necessary steps under the Mutual Assistance in Criminal Matters Act 2022.

Signed, dated and delivered at Ile du Port on this 23 day of August 2022.



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M. Burhan J