

SUPREME COURT OF SEYCHELLES

Reportable

[2022] SCSC 790

MA 168/2022

Arising in MC 16 of 2021)

In the matter between:

THE GOVERNMENT OF SEYCHELLES

(rep. by Mrs Nissa Thompson)

Applicant

and

SIMON KENNETH DONALD MUSSARD

JOANNE JULIA FANCHETTE

(Both unrepresented)

1st Respondent

2nd Respondent

Neutral Citation: The Government of Seychelles v Mussard & Anor MA 168/2022 (Arising in MC 16 of 2021) [2022] SCSC 790 (14 September 2022)

Before: Govinden CJ

Heard: 14 September 2022

Delivered: 14 September 2022

ORDER

GOVINDEN CJ

[1] This is an application by the Government of Seychelles herein represented by the Attorney General (the applicant), for a disposal order under section 5 of the Proceeds of Crimes Civil Confiscation Act, (POCCCA), that the whole of the sums of Seychelles rupees two hundred and fifty thousand, (the property), as set out in the Table to the application and outlined in the Interlocutory Order of this court in MC 16/2021, be transferred to the Republic. Further, the applicant moves for further and other orders as the court shall deem just and proper.

- [2] The grounds on which the application is based are in a gist as follows:
- (1) That the Interlocutory Order was made under section 4 of POCCCA has been in force for not less than 12 months in relation to the property
 - (2) That there is no pending appeal before the Court of Appeal in respect of the said interlocutory order. That there is no application pending under section 4(3) of POCCCA before any court in respect of the property.
- [3] Having thoroughly considered the application and the position of the respondents thereon this court is satisfied based on the grounds adduced as duly supported by the affidavit evidence of Superintendent Neville Thaver, that there are interlocutory and receivership orders made pursuant to section 4 of POCCCA , prohibiting the respondents from disposing of or otherwise dealing with the whole or any part of the property, the subject matter of this application, or diminishing its value; and appointing Ms Michelle Murphy who was then Superintendent in the Seychelles Police to be the Receiver of the property on the terms set out in the said order.
- [4] Further, that the property subject to the interlocutory and receivership orders, which constitutes the subject matter of this application, is the sum of SCR 250,00.00/- and that the said sums of cash stand-in credit in the FCIU receivership account.
- [5] That the said interlocutory order in relation to the property has been in force for not less than 12 months as specified under section 5(1) of the POCCCA.
- [6] That there is no appeal pending before the court of appeal in respect of the said interlocutory order and or any other order made under section 4 of the POCCCA, nor of any pending application made by or on behalf of the respondents or any other person under section 4(3) of the POCCCA. That the interlocutory proceedings proceeded ex-parte with the respondents, who were served not appearing in court to contest the application.

[7] It follows therefore, that this court based on the foregoing findings, is satisfied that an order for the final disposal of the said property, less any bank charges which ABSA bank Seychelles may be entitled to deduct, by way of transfer to the Republic as provided for in section 5 of POCCCA is to be ordered accordingly.

[8] Pursuant to section 5 of POCCCA, I hereby order for the disposal of the property as specified in the table attached to this application, namely sums of money, totaling Seychelles Rupees Two Hundred and fifty thousand (SCR 250,000/-), be transferred to the Republic subject to less any bank charges which ABSA bank Seychelles may be entitled to deduct

Signed, dated, and delivered at Ile du Port on 14th of September 2022.

Govinden CJ