

SUPREME COURT OF SEYCHELLES

Reportable
[2022] SCSC 983
MA 182/2022
(Arising in MC 28/2020)

In the matter between:

THE GOVERNMENT OF SEYCHELLES
(rep by Mrs Nissa Thompson)

Applicant

and

STEVE MONTHY

1st Respondent

LIZA MONTHY
(Unrepresented)

2nd Respondent

Neutral Citation: *Gov of Sey v Monthy & Anor* (MA182/22) [2022] SCSC 983 (11 November 2022)
Before: Burhan J
Heard: 21st September 2022
Delivered: 11th November 2022

ORDER

I proceed to issue a Disposal Order in terms of Section 5(1) of POCA, directing that the whole of the property described in the Table to the Notice of Motion dated 12th August 2022 totalling a sum of SCR 385,338.20 comprising of SCR 384,050.00, Euro 50 and USD 20 which is presently deposited in a FCIU (Financial Crime Investigation Unit) receivership Account at the ABSA bank be unconditionally transferred to the Republic. I make further order that such transfer shall confer absolute title to the Republic free from any claim of any interest therein.

ORDER

BURHAN J

- [1] On the 12th August 2022, the Government of Seychelles represented by State Counsel Mrs Nissa Thompson, filed a Notice of Motion MA 182 of 2022 arising from case MC 28 of 2020 seeking a Disposal Order under Section 5 of Proceeds of Crime (Civil Confiscation) Act (POCA) in respect of the cash set out in the Table of the Notice of Motion totalling a sum of SCR 385,338.20 comprising of SCR 384,050.00, Euro 50 and USD 20 which is presently deposited in a FCIU (Financial Crime Investigation Unit) receivership Account at the ABSA bank. It is mentioned in the affidavit dated 12th August 2022 filed by Superintendent Thaver that an application under Section 4 of POCA was filed (MC 28 of 2020) and an Interlocutory Order was granted by Twomey CJ on the 13th October 2020. A copy of the Interlocutory Order was attached as NT 1 together with a rectification order dated 21 June 2022 NT 2.
- [2] Notice of the Disposal Order application was served on the 1st and 2nd Respondent by Sergeant Dave Jean on the 24th August 2022 as per the return to notice filed in the case record. Both Respondents failed to make an appearance and thereafter the matter was fixed for Order as there was no challenge to the application or the evidence by way of affidavit of Superintendent Thaver as the Respondents though noticed failed to appear in Court.
- [3] I have considered the facts set out in the Application and affidavit of Superintendent Thaver dated 12th August 2022 attached to the notice of motion. It is stated in the said application and affidavit filed that an Interlocutory Order under Section 4 of POCA given by this Court on the 13th of October 2020, has been in force for not less than 12 months in relation to the said property in the notice of motion and further and there has been no appeal from the said Interlocutory Order.
- [4] It is further stated that there is no pending application under section 4 (3) of the POCA before any court on behalf of the Respondent or any other person in respect of the said property. I will proceed to accept the affidavit evidence placed before this court which is supported by the annexed document being the Interlocutory Order dated 13th October 2020.

- [5] I am satisfied on perusal of the said affidavit evidence and documents annexed to the Application that an Interlocutory Order has been given in respect of the said property on the 13th of October 2020 and that in terms of Section 5 (1) of the POCA, the said order has been in force since then for over a period of 12 months. I am also satisfied in terms of Section 5 (1) of the POCA that no appeal has been filed by the Respondents or any person on their behalf from the said Interlocutory Order or any other order. This Court, having considered all the salient facts before it, is satisfied that no injustice will be caused to any person in terms of Section 5 (10) of the said Act, if the Disposal Order be given.
- [6] I therefore proceed to issue a Disposal Order in terms of Section 5(1) of POCA, directing that the whole of the property described in the Table to the Notice of Motion dated 12th August 2022 totalling a sum of SCR 385,338.20 comprising of SCR 384,050.00, Euro 50 and USD 20 which is presently deposited in a FCIU receivership Account at the ABSA bank be unconditionally transferred to the Republic. I make further order that such transfer shall confer absolute title to the Republic free from any claim of any interest therein.

Signed, dated and delivered at Ile du Port on 11th November 2022



11-11-2022

M Burhan J