

SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC
CM 97/2022

In the matter between:

LAURA VALABHJI
c/o Samantha Aglae
Suite 3-06
Capital City Building
Victoria
Mahe
Seychelles
(in person)

1st Applicant

and

MUKESH VALABHJI
c/o France Bonte
4th Floor
THE LINK HOUSE
Ile Perseverance
Mahe
Seychelles
(in person)

2nd Applicant

and

TED BARBE
The Commissioner of Police
Mahe
Seychelles
(Represented by Mr Georges Tachett)

Respondent

Neutral Citation: *Valabhji & Or vs Barbe* (CM 97/2022) [2023] SCSC (17th January 2023)
Before: Adeline, Judge
Summary: Application for renewal of detention order/Section 26(5) of the Prevention of Terrorism Act 2004/Clarification over order made to maintain the status quo.
Heard: 17 January 2023
Delivered: 17 January 2023

RULING

Adeline, J

- [1] This is a notice of motion supported by an affidavit of facts and evidence, by which motion, one Laura Valabhji and Mukesh Valabhji seek for clarity over an order of this court made on the 6th January 2023 which reads as follows;

“The matter is set for reply on the 18th January 2023 at 10 am before Judge Burhan for reply from the 1st and 2nd Respondents. In the meantime, the status quo is maintained ... meaning I have not made an order until a reply is received and the presiding Judge decides on the matter after a reply has been received”.

- [2] At paragraph 6 of the supporting affidavit to the motion, the Applicants make the following averment;

“6. That the clarification being sought is to establish and clarify the following;

- a. That no renewal order in respect of the Section 26 order was made by Adeline J.
- b. That the status quo that was maintained was the order of Judge Burhan made on 9th December 2022 in case CM 97 of 2022.
- c. That the said status quo maintained the above mention order of Judge Burhan until such date it lapses”.

- [3] The latin word “status quo” simply means, to keep things the way they are now, or to keep the state of a situation as it is. On the day the application for renewal of the detention order made by Burhan J in CM 97 of 2022 in respect of title B39 on the 13th September 2022 was first mentioned before this court during the court’s vacation, I happened to be the duty Judge.

- [4] I was then not privy to the facts and circumstances of this case, and furthermore, without giving the Respondents the opportunity to answer the application, it would have been inappropriate for the court to make an order for further detention of title B39. The court had, in the circumstances, to maintain the status quo.
- [5] Therefore, for the sake of clarity, it is correct “that no renewal order in respect of the S26 order was made” by me.
- [6] Furthermore, that by saying that the “status quo is maintained”, I meant that, B39, which at the time was under detention, would remain under detention until the presiding Judge, that is, Burhan J, determines the application for renewal of the detention order.
- [7] I handled that case the way I did, because after reading the order of Burhan J dated 13th September 2022 which was made to have retrospective effect, I formed the opinion, that should Burhan J decide to renew the detention order, the order will equally be made to run retrospectively.
- [8] In essence, when I said that in the meantime the status quo is maintained, I meant that, property B39 shall remain under detention until the presiding Judge determines the application for renewal and makes further order.

Signed, dated and delivered at Ile du Port 17 January 2023.

B Adeline, Judge