

SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC ...
MA150/2020
Arising in CS23/2019

In the matter between:

EASTERN EUROPEAN ENGINEERING LIMITED Applicant
(rep. by Basil Hoareau)

and

VIJAY CONSTRUCTION (Proprietary) LIMITED Respondent
(rep. by Bernard Georges)

Neutral Citation: Eastern European Engineering Limited v Vijay Contruction (Proprietary) Limited (MA150/2020) [2023] SCSC..... (17 February 2023)
Before: Carolus J
Summary: Validation of Order of Attachment – Sections 247 - 249 Seychelles Code of Civil Procedure
Heard: 02 & 09 December 2022, 06 & 09 January 2023
Delivered: 17 February 2023

ORDER

CAROLUS J

[1] Pursuant to an application made under section 247 of the Seychelles Code of Civil Procedure (“SCCP”) by Eastern European Engineering Limited (“EEEL”) the judgment creditor in CS23/2019, the Registrar, by an order dated 20th August 2020, ordered the attachment of “*all sums of money and other property whatsoever you now owe or may owe on whatever account to [Vijay Construction (Proprietary) Limited], especially the sum of EUR 16,604,670.43/- and USD 126,000, EUR 8,872,845.14 and GBP 245,315.90*” held by the Seychelles Commercial Bank, Bank of Baroda, Bank of Ceylon Seychelles Branch, ABSA Group Limited, Mauritius Commercial Bank (Seychelles)

Limited,, Nouvobanq, Seychelles Credit Union and Bank of Al Habib Ltd. In terms of the order, the object of the attachment was to secure the payment of the aforementioned sums due to the judgment creditor and all costs that may be incurred by the judgment debtor namely Vijay Construction (Proprietary) Limited (“Vijay”).

[2] By Notice of Motion dated 3rd September 2020 supported by affidavit of Vadim Zaslonov, EEEL applied for validation of the order of attachment pursuant to section 248 of the SCCP and for an order that *“all sums of money in bank accounts held in the name of [Vijay Construction (Proprietary) Limited] be seized and transferred into the Applicant’s bank account nos. 32002058739022, 21002058739038 and 01002058739016 held with Seychelles International Mercantile Banking Corporation t/a Nouvobanq in the following manner:*

(i) *All money in the US Dollar currency be transferred into bank account 32002058739022;*

(ii) *All money in the Euro currency be transferred into bank account 21002058739038; and*

(iii) *All money in the Seychelles Rupees currency be transferred into bank account 01002058739016.*

[3] Vijay was summoned to appear before the Court to show why the money attached should not be paid to EEEL. Given that the judgment in CS23/2019 was subject to an appeal, it was agreed that the matter would be dealt with after the Court of Appeal’s decision. The final decision of the Court of Appeal was rendered on 21 October 2022 in which it dismissed the appeal and upheld the judgment of this Court in favour of EEEL. Vide *Vijay Construction (Pty) Ltd v Eastern European Engineering Ltd* (SCA 28 of 2020) [2022] SCCA 58 (21 October 2022). Thereafter proceedings for the validation application resumed and a date was fixed for hearing of the application.

[4] Although Vijay did file an answer to the Notice of Motion on 6th October 2020, this was only to seek a stay of the validation pending hearing of a winding up petition which it had

filed before the Supreme Court which was ultimately dismissed. He did not show cause as to why the money attached should not be paid to EEEL at the hearing.

- [5] The banks mentioned in the attachment order of the Registrar were summoned to appear to state what money belonging to the judgment debtor was in their hands. According to the return of service on file Bank of Al Habib Ltd was no longer in operation. Representatives of the Bank of Ceylon, the Seychelles Credit Union, the Mauritius Commercial Bank (Seychelles) Limited, ABSA Group Limited and the Seychelles Commercial Bank appeared in Court and confirmed that Vijay did not have any accounts with these institutions.
- [6] Ms Kelly Mothe, a senior legal officer of Nouvobanq confirmed on oath that Vijay has three accounts with that bank namely a Euro account, a United States Dollar account and a Seychelles Rupee account. She produced certificates issued by the bank specifying the sums standing as credit balances in the three accounts, as follows:
- (a) In the Euro account number 21002040475006 - Euros Two Hundred and Seven Thousand Five Hundred and Seventy Six and Cents nineteen (€207,576.19) (Exhibit P1).
 - (b) In the United States Dollar account number 32002040475006 – United States Dollars One Hundred and Fifty Two Thousand Six Hundred and Ninety One and Cents Eighty Five (\$152,691.85) (Exhibit P2).
 - (c) In the Seychelles Rupee account number 01002040475006 – Seychelles Rupees Nine Hundred and Fifty Six Thousand Nine Hundred and Five and Cents Four (RS 956,905.04) (Exhibit P3).
- [7] Ms Hilda Lablache representing the Bank of Baroda confirmed on oath that Vijay has an account with that bank. She produced a letter signed by Mr Mathi Chakravarthi Chief Executive of the bank confirming that the account has a credit balance of Seychelles Rupees Six Hundred and Thirty Seven Thousand Four Hundred and Fifty Four and Cents Fifteen (RS 637,454.15) (Exhibit P4).

[8] After hearing the evidence in regards to this application and taking into account that Vijay has not shown cause as to why the money attached should not be paid to EEEL, in accordance with section 249 of the SCCP, I hereby validate the attachment order made by the Registrar on 20th August 2020. Accordingly I direct that the money held by –

(a) Nouvobanq in Euro account number 21002040475006 in the sum of €207,576.19; United States Dollar account number 32002040475006 in the sum of \$152,691.85; and in Seychelles Rupee account number 01002040475006 in the sum of RS 956,905.04; and

(b) Bank of Baroda on account of Vijay Construction (Proprietary) Ltd in the sum of RS 637,454.15.

to be seized in execution and transferred into EEEL's bank accounts held with the Seychelles International Mercantile Banking Corporation t/a Nouvobanq namely *bank account nos. 32002058739022, 21002058739038 and 01002058739016, as follows:*

(i) *All money in the US Dollar currency be transferred into bank account 32002058739022;*

(ii) *All money in the Euro currency be transferred into bank account 21002058739038; and*

(iii) *All money in the Seychelles Rupees currency be transferred into bank account 01002058739016.*

[9] A copy of this Order is to be served on the Managing Director of the Seychelles International Mercantile Banking Corporation t/a Nouvobanq and the Chief Executive of Bank of Baroda.

Signed, dated and delivered at Ile du Port Victoria on 17th February 2023

Carolus J