

SUPREME COURT OF SEYCHELLES

Reportable

[2023] SCSC ...
MA 301/2022
Arising in CS 147/2022

In the exparte matter of:

ROYAL SHIELD LIMITED
(rep. by Mr Rajasundaram)

Applicant

In the matter between:

ROYAL SHIELD LIMITED
(rep. by Mr Rajasundaram)

Plaintiff

and

MR. A. P. ERANDA KUMARA DE SILVA **Defendant**
(unrepresented)

Neutral Citation: *Ex parte Royal Shield Limited* (MA 301/2022 (Arising in CS147/2022))
[2023] SCSC 2 (09 January 2023)

Before: Carolus J

Summary: Application Provisional Seizure – Section 280 - 282 Seychelles Code of Civil Procedure

Heard: 09 January 2023

Delivered: 09 January 2023

RULING

CAROLUS J

[1] The Petitioner Royal Shield Limited is the Plaintiff in CS147 of 2022 (the Principal case) in which it is claiming the sum of US\$ 38,440.39 with interest and costs, from the Respondent, the Defendant in the Principal case. The sum claimed in the Principal case is alleged to have been borrowed by the Defendant/ Respondent as a staff loan from the

Plaintiff/ Petitioner at the time that the Defendant/ Respondent was employed by the Plaintiff/ Petitioner (August 2013 – December 2016) and which Defendant/ Respondent had failed to repay.

- [2] The Petitioner has now filed the present Application (MA 301 of 2022) under section 280 of the Seychelles Code of Civil Procedure praying the Court for an ex parte Order for the provisional seizure of the Respondent's motor vehicle, namely Hyundai Hatchback registration number S22738 – Year of Manufacture 2013, which is parked at the Respondent's residence i.e. Luxury Apartments, Providence Highway, Mahe and/or at the premises of Capital Management Consultancy Limited Providence, Mahe.
- [3] The Petition is supported by an Affidavit sworn by one Ravi Naidu who avers therein that he is the Chief Executive Officer of the Petitioner company. He avers that the Respondent undertook to start repaying the aforementioned loan as from August 2018, as evidenced by a letter dated 1st June 2018 which is attached to the Plaint, but has not only failed to do so, but is now employed by another Company Capital Management Consultancy Limited.
- [4] He avers that he believes and has been advised that there are chances that the Respondent may flee the Republic which would render the Petitioner's chances of recovering the debt futile. He avers that the Petitioner's claim is genuine and based on an acknowledgement signed by the Respondent and that therefore the Petitioner's chances of obtaining a judgment in its favour is very high.
- [5] Mr. Naidu further avers that if the Respondent leaves the country without repaying the loan the Petitioner stands to suffer huge financial loss and serious prejudice, and that in order to secure repayment of the loan it is necessary to provisionally seize the vehicle until the full amount of the loan is paid off. He avers that on the other hand, an order for provisional seizure would not cause the Defendant/ Respondent any prejudice as he would be allowed to use the vehicle but would only be prevented from selling it until otherwise ordered by the Court or until full repayment of the loan.

[6] I am satisfied that the Petitioner has a bona fide case, on the basis of the Complaint and attached documents, as well as the Petition and supporting Affidavit. Accordingly in terms of section 281 of the Seychelles Code of Civil Procedure, I direct the Registrar of the Supreme Court to issue a warrant to provisionally seize motor vehicle registration number S22738, pending the further order of this Court.

[7] I further Order that motor vehicle registration number S22738 remain in the custody of the Respondent and is not to be sold until after judgment has been given in the Principal case. The Seychelles Licensing Authority is accordingly directed not to transfer the said vehicle to any other person until final disposal of the Principal suit.

[8] A copy of this Order is to be served on the Respondent and the Seychelles Licensing Authority.

Signed, dated and delivered at Ile du Port Victoria on 9th January 2023

Carolus J