

SUPREME COURT OF SEYCHELLES

Reportable
MA 10 of 2024
(Arising in MC 18 of 2019)

In the matter between:

THE GOVERNMENT OF SEYCHELLES
(rep by Mrs Nissa Thompson)

Applicant

and

GIANNI BORDINO
(rep by Mr. Frank Elizabeth)

Respondent

Neutral Citation: *Gov of Sey v Bordino* (MA 10/24) (19 July 2024)
Before: Burhan J
Heard: 12 June 2024
Delivered: 19 July 2024

ORDER

I proceed to issue an Order that Sergeant Dave Jeanne be appointed as the new Receiver replacing the then Superintendent Hein Prinsloo as Receiver over of the property described in the Table to the Notice of Motion dated 18 January 2024, namely Parcel V17532 comprising of condominium unit A4 in Zanmalak, Eden Island, Mahe, Seychelles to the value of SCR 11 160 000.00 which is presently in the possession of the FCIU (Financial Crime Investigation Unit) receivership to keep and take possession of or dispose of or otherwise deal with the said property or any other property of which he is appointed in accordance with the Court’s direction, pursuant to section 8 of the POCA.

ORDER

BURHAN J

- [1] This is an application by the Government of Seychelles represented by State Counsel Mrs Nissa Thompson, seeking an Order appointing Sergeant Dave Jeanne of the Financial Investigation Unit (FCIU) as Receiver of the specified property set out in the Table of the Notice of Motion namely Parcel V17532 comprising of condominium unit A4 in Zanmalak, Eden Island, Mahe Seychelles to the value of SCR 11 160 000.00 which is presently in the possession of the FCIU (Financial Crime Investigation Unit) receivership.
- [2] It is averred that on the 27th March 2020, the Supreme Court made an Interlocutory order pursuant to section 4 of POCA. Further, the Supreme Court also made a Receivership order pursuant to section 8 of POCA, appointing Mr Hein Prinsloo as receiver over the specified property. The Interlocutory and Receivership order was attached and marked as “DJ1”.
- [3] On the 23rd April 2020, the Respondent filed a Notice of Appeal against the Orders of the 27th March 2020 to the Court of Appeal. On the 16 December 2022, the Court of Appeal subsequently dismissed the Appeal on the basis that, *inter alia*, the grounds of appeal lack merit. The Court of Appeal judgment was attached and marked as “DJ2”.
- [4] The grounds on which this application is based on, is the fact that Superintendent Hein Prinsloo’s employment contract ended in April 2021 and that he has left Seychelles after the end of his employment contract. The Applicant argues that prejudice might be caused if the new Receiver, Sergeant Dave Jeanne, is not appointed.
- [5] It is to be noted at this juncture that the order of the Supreme Court of 27 March 2020 ordered that Superintendent Hein Prinsloo be appointed as Receiver over all of the specified property in the Table attached to the application, to keep and take possession of or dispose of or otherwise dealing with any of the property in respect of the then application pursuant to section 8 of the POCA.
- [6] The Respondent in his written submissions argued that the application to replace the Receiver is legally incompetent and procedurally defective. Further, the Applicant argued that there is no precedent in Seychelles case law supporting the direct replacement of a

receiver without first cancelling the existing appointment. This is not correct as there is recent case law *Government of Seychelles v Gabriel & Ors (MA 328/2021) [2022] SCSC 1073*, that permitted the change of Receivership in exactly the same circumstances as in this current case. Whether the application was opposed or unopposed is not material to the application of the law and the decision given by the Judge for the change in receivership. The Court is in agreement however with the submissions of the Respondent, as mentioned in para 8.4, page 4 and I quote “*the court has the discretion to modify receiver appointment as needed.*”

[7] With regards to this application, the Court has scrutinised the motion and the attached affidavit in support of Sergeant Dave Jeanne of the 18 January 2024 and finds the same in line with the application as filed.

[8] This Court is satisfied based on the grounds for the application as duly supported by the affidavit, that there is a Receivership Order of the 27 March 2020 in favour of Superintendent Hein Prinsloo as Receiver over all the specified property, to keep and to take possession of or dispose of or otherwise dealing with any of the property in respect of this application pursuant to section 8 of the POCA.

[9] This Court is further satisfied that based on the evidence before the Court, it is highly unlikely that Superintendent Hein Prinsloo will be returning to the Seychelles and that since Sergeant Dave Jeanne is familiar with the matter and the operation pertaining to the specified property, he is a fit and proper person to replace Superintendent Hein Prinsloo as the new Receiver of the specified property.

[10] It follows thus, that this Court based on the foregoing findings, is satisfied that an Order of replacement of Receivership in the person of Sergeant Dave Jeanne is fit and proper in all the circumstances of this case and especially noting the nature of the specified property.

Order

[11] I proceed to issue an Order that Sergeant Dave Jeanne is appointed as the new Receiver replacing the then Superintendent Hein Prinsloo as Receiver over of the property

described in the Table to the Notice of Motion dated 18 January 2024, namely Parcel V17532 comprising of condominium unit A4 in Zannalak, Eden Island, Mahe Seychelles to the value of SCR 11 160 000.00 which is presently in the possession of the FCIU (Financial Crime Investigation Unit) receivership to keep and take possession of or dispose of or otherwise deal with the said property or any other property of which he is appointed in accordance with the Court's direction, pursuant to section 8 of the POCA.

Signed, dated and delivered at Ile du Port on 19 July 2024

M Burhan J