

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MA 309/2014

(arising in CC 04/2012)

[2014] SCSC 404

HEDGE FUNDS INVESTMENT MANAGEMENT LTD

Plaintiff

versus

HEDGEINTRO INTERNATIONAL LTD

Defendant

Heard: 22nd October 2014

Counsel: Mr. Rouillon for plaintiff

Mr. Renaud and Mr. Derjacques for defendant

Delivered: 22nd October 2014

RULING ON MOTION

D. Karunakaran, Acting Chief Justice

[1] This ruling relates to the notice of motion filed by the plaintiff dated the 14th October 2014 in which the plaintiff seeks leave of this court for an urgent hearing for the examination and cross-examination of an expert witness of the plaintiff, who is in the UK to be carried out via a Video or Skype connection as provided for under Section 11 of the Evidence Act, Cap 74.

[2] I gave careful consideration to the submission made by both counsel on both sides in this matter. First of all, I quite agree with the submission made by Mr. Derjaques that 11 C of the Evidence Act applies only to criminal matters. It is so evident that 11(1), 11(2)A refers to a person. The term “person” should be interpreted to accord with the meaning conveyed by the term used in the previous sub-sections, which refers to an “accused person”.

[3] Accordingly, I hold that 11 C applies to criminal matters. In any event to satisfy court the applicant has to meet the three conditions:

- (i) It is not reasonably practicable for a person to attend the court in person and give evidence ; and
- (ii) The court should be of the opinion that it is desirable and practicable that the person should give evidences through video-link ; and
- (iii) That the arrangement would not prejudice a party to the proceedings.

In my considered view, the applicant has failed to establish any of said three conditions required to succeed in his application for leave to take evidence through video-link.

[4] In the circumstances, I dismiss this motion.

Signed, dated and delivered at Ile du Port on 22nd October 2014.

D Karunakaran
Acting Chief Justice