

SEYCHELLES / JUDGMENT

Ex parte the Attorney General (XP 37 of 2023) [2023] SCSC 425 (9 June 2023)

[2023] SCSC 425

COURT

Supreme Court

CASE / FILE NUMBER

XP 37 of 2023

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SUPREME COURT OF SEYCHELLES Reportable

[2023] SCSC 4~S XP 37/2023 In the ex parte matter of: THE ATTORNEY GENERAL (Represented by Mr Barry Galinoma, Senior state counsel) Applicant The Attorney General (XP 37/2023) [2023] SCSC Adeline J Application for an interim order under Section 3 (1) of the Proceeds of Crime (Civil Confiscation) Act 2008, "POCCCA". 7 June 2023 9 June 2023 ,9th Tune2023) LtJ:~ ORDER ON MOTION Neutral Citation: Before: Summary: Heard: Delivered: Adeline, J [1] This is an ex parte application, brought before this court by way of notice of motion pursuant to Rule 4 (1) read with Rule 6 (1) - (4) and Rule 7 (1) of the Proceeds of Crime (Civil Confiscation) (Procedure) Rules, 2016 by which application, the Applicant seeks for an interim order pursuant to Section 3(1) of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended as a matter of urgency on the following terms; (i) An interim order "prohibiting the Respondent or any other person specified in the order front disposing of or otherwise dealing with the whole or any part of the property set out in the Table appended to this Notice of Motion, (ii) Upon the making of such interim order, that sergeant Angella Ernesta or any such other person as this court shall direct, be appointed as Receiver over all or part of the said property to manage, keep possession or dipose of or otherwise deal with any other property in respect of which she is appointed in accordane with the court's direction pursuant to Section 8 of the Proceeds of Crime (Civil Confiscation) Act, 2008) as amended. (iii) For an order providing for notice of any such order to be given to the Respondents or any other person directed by the court". [2] As per the application, the grounds upon which the orders are being sought are that; "(i) The statement of the Chief Executive Officer of the Nouvobanq (NVB) Victoria, Mahe, Mr G1ristopher Edmond in which he explained the modus operandi employed to defraud the NVB in order to acquire the illicit funds. (ii) The manner in which the NVB was defrauded, and the subsequent credit of 'funds into the bank accounts held by the Respondents, derived from the Fraudulent requests made for refunds by the Respondents. (iii) That from the explanation given by Christopher Edmond and Sergeant Angella Ernesta investigation as per the above paragraphs, I am of the belief that the criminal conduct of

which the said funds have been acquired in whole or in part in receiving stolen property and having possession of stolen or unlawfully obtained property". [3] In her supporting affidavit to the application, Sgt Angella Ernesta of the Seychelles Police Force, presently attached to the Commercial Crime Unit "CCU" avers, that she has made reasonable investigation into the matter leading to the making of such application for an interim order under Section 3(1) of POCCCA and that her affidavit evidence is based on her belief having regards to Section 9 and 9(2) of POCCCA. Section 9 of POCCCA reads; "9(1) Where the Director or Deputy Director states in proceedings under Section 3 or 4 on affidavit or, if the court so permit or direct, in oral evidence, that he believes that;

- (a) The respondent is in possession or control of specified property and that the property constitutes, directly or indirectly, benefit from criminal conduct, or
 - (b) The respondent is in possession or control of specified property, and that the property was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes benefit from criminal conduct, and
 - (c) The value of the property, or as the case may be the total value of the property referred
- (a) and (b) is not less than SCR 50,000, then if the court is to in both paragraphs satisfied that there are reasonable grounds for the belief aforesaid, the statement shall be evidence of the matters referred to in paragraph (a) or paragraph (b) or in both paragraphs (a) and (b), as may be appropriate, and of the value of property". [4] Section 9(2) states; "(2) The applicant shall not make an application under Section 3 or 4, or submit evidence of his belief described in this Section, except after reasonable enquiries and investigation and on the basis of credible and reliable information that he has reasonable grounds for suspecting.
- (a) The Respondent is in possession or control of specified property and that property constitutes directly or indirectly, benefit from criminal conduct, or
 - (b) The Respondent is in possession or control of specified property and that the property acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes benefit from criminal conduct, and that the value of the property or as the case maybe the total value of the property referred to in Subsection (1) (a) and (b) is not less than SR 50,000. [5] I have carefully considered this application for an interim order pursuant to Section 3 (1) of POCCCA in the light of the affidavit evidence of Sgt Angella Ernesta of the Commercial Crime Unit of the Police Force to which are exhibited the relevant documentary evidence in support, [6] I have also carefully read the affidavit and the supporting documentary exhibits annexed thereto. I am satisfied, that the case is made out for an interim order under Section 3 (1) of POCCCA given that the statutory requirements under Section 3 (1) (a) (i) (ii) and (b) of POCCCA for the making of such an order are met. [7] I am equally satisfied, that reasonable enquiries and investigations have been carried out in compliance with Section 9 (2) (a) and (b) of POCCCA and that the Applicant's belief pursuant to Section 9 (1) (a), (b) and (c) of POCCCA is based on credible and reliable information.

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t-e-SeGtieH-J{-lj-.e-ofl--- POCCCA is granted the terms of which are as follows; (i) The Respondents named here under in the table linked with their corresponding bank account held at the Nouvobanq and Mauritius Commercial Bank are prohibited from disposing or otherwise dealing with whole or any part of the properties or diminishing the value of the properties held in their respective bank account as shown in the 2nd column. (ii) Sgt Angella Emesta is appointed as receiver over all the said properties to manage, keep possession, or dispose of, or otherwise deal with the properties in respect of which she is appointed pursuant to Section 8 of POCCCA. (iii) By copy of this order, the Respondents as named in the list below, shall be notified of this order. (iv) This order shall be effective for a period of 30 days as of today. [9] The prospective Respondents to this application and the banks holding their accounts are; I NOUVOBANQBANK BANK ACCOUNT BANK ACCOUNT REMAINING BALANCE IN HOLDER NUMBER BANK ACCOUNT IN SEYCHELLES RUPEES Sage consulting Nourrice Jean Winsley Roucou Ghislaine Agnes Adeline Henry Vincent Odok Jonas Egang Amiri Kassim Said Lyavoga Claudine Muriithi Alex Karanja Mwangi Sharon Waiyego Kasure Emmanuel Ochieng Ochola James Okoth Chebet Edward Kimaru 284,333.76 504,121.80 44,232.70 187,565.89 879,528.82 824,848.46 386,301.26 50,173.14 65,095.67 52,385.10 1279.64 1198.60 Ade Abraze Apondi 1,090,052.80 Wachira Margaret Mukami Ondiek Katherin Achieng Matolo Abedinego Mutisya 73,808.76 862,726.85 18,134.25 MAURITIUS COMMERCIAL BANK BANK ACCOUNT BANK ACCOUNT REMAINING BALANCE HOLDER NUMBER IN BANK ACCOUNT IN SEYCHELLES RUPEES Terry James Cooposamy 3324.38 Sign d dated and delivered at Ile du Port 9 June 2023. 6

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Prepared on 26 October 2026 · Esheria