

**SUPREME COURT OF SEYCHELLES**

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**Not Reportable**  
[2019] SCSC ~~604~~  
MA 204/2019  
(Arising in CS95/2019)

In the ex parte matter of:

**BERTRAN JERVE RENAUD**  
*(rep. by Guy Ferley)*

**Petitioner**

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**Neutral Citation:** *Exp Bertran Renaud* (MA204/2019) [2019] SCSC ~~604~~ (18 July 2019).  
**Before:** E. Carolus J  
**Summary:** Petition for Provisional Attachment - Sections 280 & 281 of the Seychelles Code of Civil Procedure.  
**Heard:** 18 July 2019  
**Delivered:** 18 July 2019

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**ORDERS**

Order for provisional attachment of the sum of SCR110,000/- or any lesser sum due to or belonging to Kiren Maverick Sammy Ally, held in the hands of the Seychelles Commercial Bank Limited in account number 5161743006, and prohibiting the Seychelles Commercial Bank Limited from paying such sum to any other person, pending the further order of the court.

This order is to be served on the Seychelles Commercial Bank Limited.

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**ORDER**

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**CAROLUS J**

- [1] The petitioner Bertran Jerve Renaud has filed a complaint against Kiren Maverick Sammy Ally (“Mr. Ally”), seeking orders of the court to rescind a contract between the petitioner and Mr. Ally for fraud, to compel Mr. Ally to return the sum of SCR110,000/- to the petitioner and to pay him moral damages with interests and costs.

- [2] The petitioner has also filed this ex-parte Petition under section 280 of the Seychelles Code of Civil Procedure for the provisional attachment of money belonging to Kiren Maverick Sammy Ally held in an account with the Seychelles Savings Bank Limited.
- [3] The circumstances giving rise to the present petition, as averred in the petitioner's affidavit in support of the petition are essentially that Kiren Maverick Sammy Ally advertised vehicle registration number S19582 for sale, representing the vehicle to be a Hyundai i10 1.2L (1200cc) 2010 model. In reliance on the contents of the advertisement and other verbal representation made by Mr. Ally to him, the petitioner contracted to purchase the vehicle for SCR110,000/- which sum was transferred from the petitioner's account with the Seychelles Credit Union to Mr. Ally's bank account number 5161743006 held with Seychelles Commercial Bank Limited. The petitioner and Mr. Ally then proceeded with the formal transfer of the vehicle from Mr. Ally to the petitioner by the Seychelles Licensing Authority. Immediately after that, the petitioner noticed on the transfer document that the vehicle was manufactured in 2008 and had an engine capacity of 1086cc, contrary to what had been advertised by Mr. Ally, which Mr. Ally confirmed to be the case after ascertaining the same from the vehicle testing station. Mr. Ally has refused to return the money to the petitioner despite demands to that effect, and instead left the car at the Anse Aux Pins police station causing the police to call the petitioner informing him of the same. The petitioner however did not collect the vehicle.
- [4] The petitioner has produced the following documents in support of the petition:
- Photographs of a vehicle Hyundai i10 with the number 2010 displayed over the number plate, and the number 1.2 representing the capacity of the vehicle on the boot door.
  - A Vehicle Transfer Certificate issued by the Seychelles Licensing Authority and dated 6<sup>th</sup> June 2019, for the transfer of vehicle S19582 with the name of the previous owner entered as Kiren Maverick Sammy Ally and the name of the new owner as Bertran Jerve Renaud. The year of manufacture of the vehicle is entered as 2008 and its engine type as 1086cc.

- An email dated 6<sup>th</sup> June 2019, from SCU SEFT addressed to [banking@scu.sc](mailto:banking@scu.sc) with the subject Accepted SEFT Payment Notification to the effect that SCR110,000/- had been transferred on 6<sup>th</sup> June, 2019 from Renaud Bertran's account number 154528 with the Seychelles Credit Union to a beneficiary Ally, bank account 5161743006 with the Seychelles Commercial Bank.

[5] In terms of the Petition the Petitioner prays for:

- a. An order attaching the sum of SR110,000/- or any lesser sum standing in the account in the event that the Defendant has started spending the money, from the bank account number 5161743006 belonging to the Respondent held at the Seychelles Commercial Bank Limited.
- b. An order that the Seychelles Commercial Bank Limited is directed to prevent the Respondent from debiting his account number 5161743006 to less than SR110,000/- until further order of the Court.

[6] Orders for provisional seizure and/or attachment are provided for by sections 280 and 281 of the Seychelles Code of Civil Procedure ("SCCP") which are reproduced below -

*280. At any time after a suit has been commenced, the plaintiff may apply to the court to seize provisionally any movable property in the possession of the defendant in the suit or to attach provisionally any money or movable property due to or belonging to the defendant in the suit, which is in the hands of any third person. The Petition shall be by petition supported by an affidavit of the facts and shall be signed by the plaintiff or his attorney, if any, and shall state the title and number of the suit.*

*281. If the court is satisfied that the plaintiff has a bona fide claim, the court shall direct a warrant to be issued to one of the ushers to seize provisionally such property, or shall make an order prohibiting the third person in whose hands such money or other movable property is from paying such money or delivering such property to any other person pending the further order of the court. The order shall be served on the third party by an usher of the court. The court, before any such warrant or order is issued, may require the Petitioner to find such security as the court may think fit. Underlining is mine.*

[7] On the face of the plaint and the documents in support of the petition, I am satisfied that the petitioner has a bona fide claim against Mr. Ally. It is also obvious from the relief

sought by the petitioner that he fears that Mr. Ally will spend the money transferred to his account and that the petitioner will be unable to recover the same should judgment be given in his favour in the principal suit hence his application for a provisional seizure.

[8] I therefore grant the petition and make order:

- (a) Attaching provisionally the sum of SCR110,000/- or any lesser sum due to or belonging to Kiren Maverick Sammy Ally, held in the hands of the Seychelles Commercial Bank Limited in account number 5161743006 pending the further order of the Court; and
- (b) Prohibiting the Seychelles Commercial Bank Limited from paying the sum of SR110,000/- or any lesser sum, due to or belonging to Kiren Maverick Sammy Ally, held its hands in account number 5161743006, to any other person pending the further order of the Court.

[9] This order is to be served on the Seychelles Commercial Bank Limited.

Signed, dated and delivered at Ile du Port on 18 July 2019



E. Carolus J