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**SUPREME COURT OF SEYCHELLES**

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**Reportable**

MC85/2023

In the matter between:

**THE GOVERNMENT OF SEYCHELLES**

*(Rep by State Counsel, Mr. Alvine Marie  
standing for the Attorney General)*

**Applicant**

and

**MARCUS GUYLIO DUGASSE**

*(Absent/Unrepresented)*

**1<sup>st</sup> Respondent**

and

**DAVIS ANDREW LESPERANCE**

*(Absent/Unrepresented)*

**2<sup>nd</sup> Respondent**

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**Neutral Citation:**

**Before:** Adeline, J

**Summary:** Disposal order / Section 5 of the Proceeds of Crime (Civil Confiscation) Act, 2008 (POCCCA) as amended.

**Heard:** 22 November 2023

**Delivered:** 11 January 2024

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**FINAL ORDER**

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Application by way of notice of motion supported by affidavit evidence for the making of a disposal order – Respondents opted not to contest the application – uncontroverted affidavit evidence – In accordance with Section 5(1) of the Proceeds of Crime (Civil Confiscation) Act, 2020 as amended – the application succeeds, in that, this court makes the disposal order being sought for in favor of the Applicant.

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## ORDER ON MOTION

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### **Adeline, J**

[1] This court is seized of a notice of motion supported by affidavit evidence filed in court pursuant to Section 5 of the Proceeds of Crime (Civil confiscation) Act, 2020 (“POCCCA”), by which motion, the Government of Seychelles applies for a Disposal Order in respect of a specified property, being Seychelles Rupees Two Hundred and fifty-five thousand and one hundred (255, 100.00), and such other order as this court shall see just and proper in the circumstances.

[2] The grounds upon which the Applicant seeks for the disposal order are pleaded to be the following;

*“(a) that the interlocutory order made by Justice Burhan on the 19<sup>th</sup> of November, 2021 under Section 4 of POCCCA has been enforced for not less than 12 months in relation to the specified property.*

*(b) that there is no appeal pending before the court of Appeal in respect of the said interlocutory order, or any other order under Section 4 of POCCCA, and*

*(c) that there is no application pending under Section 4(3) of POCCCA before any court in respect of the said property”.*

[3] The affidavit in support of the application is sworn by one Sergeant Dave Jeanne (“Sgt Jeanne”) who is attached to the Financial Crime Investigation Unit (“FCIU”) of the Seychelles Police Force.

[4] The Respondents above named, were both served with notice of this application on the 21<sup>st</sup> November 2023 for the Disposal Order being sought for, and both opted not to put appearance in court to file an affidavit in reply to the application.

- [5] In his affidavit in support of the application, Sgt Jeanne avers, that on the 19<sup>th</sup> November 2021, his Lordship Burhan j, made an interlocutory order pursuant to Section 4 of POCCCA, prohibiting the Respondents from disposing or otherwise dealing with the whole or any part of the specified property, or diminishing its value, being Seychelles Rupees Two Hundred and fifty- five thousand and one Hundred (SCR 255,100.00).
- [6] It is also averred by Sgt Jeanne, that in the very same legal proceeding, Burhan j made an order appointing one Heins Prinsloo, a superintendent in the Seychelles Police Force, receiver of the specified property on the terms and conditions specified in the order pursuant to Section 8 of POCCCA.
- [7] In his supporting affidavit to the application, Sgt Jeanne avers, that the interlocutory order made by Burhan j on the 19<sup>th</sup> November 2021 as regards to the specified property, has been in force for not less than 12 months as required by Section 5(1) of POCCCA, and that he is unaware of any pending appeal before the Court of Appeal against the said interlocutory order, or any other order made under Section 4 of POCCCA. Sgt Jeanne also avers, that he is not aware of any pending application made by or on behalf of the Respondents, or any other person, under Section 4(3) of POCCCA.
- [8] I have meticulously considered the uncontroverted affidavit evidence of Sgt Dave Jeanne in support of the application for the Disposal Order being sought for. I am satisfied, that an interlocutory order in respect of the specified property was made by the Supreme Court on the 19<sup>th</sup> November 2021 pursuant to Section 4 of POCCCA, and that in accordance with Section 5(1) of POCCCA such order has been in force for a period exceeding 12 months.
- [9] I am equally satisfied, that there is no pending appeal before the Court of Appeal filed by the Respondents, or any person on their behalf, against the said interlocutory order or any other order. Having had regard to Section 5(10) of POCCCA, I am further satisfied, that no injustice would be caused to any person in terms of Section 5(10) of POCCCA if the disposal order is made.
- [10] Therefore, the application succeeds, in that, in accordance with Section 5(1) of POCCCA, I make a disposal order in favour of the Applicant, that is, the Government of Seychelles, of the specified property described in the table annexed to the notice of motion, being the total sum of Seychelles Rupees Two Hundred and fifty-five thousand and one Hundred (SCR 255, 100.00).

Signed, dated and delivered at Ile du Port on 11<sup>th</sup> January 2024.

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Adeline, J