SUPREME COURT OF SEYCHELLES

[2026] SCSC
MC 77/2023

In the matter between:

THE GOVERNMENT OF SEYCHELLES **(herein represented by the Attorney General)** *(rep. by Ms Ria Alcindor)*	**Applicant**

and

RINO D'UNIENVILLE *(rep by Mr Basil Hoareau)*	**1st Respondent**
TRANFORMER ENTERPRISE (PTY) LTD	**2nd Respondent**

Neutral Citation:	*The Government of Seychelles vs D'unienville and Anor* (MC 77/2023) [2022] SCSC (03 July 2026)
Before:	Burhan J
Summary:	Section 4 Interlocutory Order under the Proceeds of Crime (Civil Confiscation) Act (POCCA)
Heard:	4 March 2026
Delivered:	03 July 2026

ORDER

I therefore proceed to grant the reliefs as prayed for by the Applicant and issue the following orders:

a) An Interlocutory Order pursuant to Section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended prohibiting the 1st and 2nd Respondents from disposing of or otherwise dealing in whole or any part of the properties, or diminishing the value of the specified properties.

b) That on the making of an order under (a) above, ASP Marcus Jean shall be appointed as Receiver over all or part of the said properties to manage, keep possession or dispose of, or otherwise deal with any other properties in respect of which he is appointed in accordance with the Court's direction, pursuant to Section 8 of the Proceeds of Crime (Civil Confiscation) Act, 2008 as amended, and;

c) A copy of this Order to be served on the 1st and 2nd Respondents, the Receiver ASP Marcus Jean and Seychelles Licensing Authority.

ORDER

BURHAN J

[1] This is an application by the aforementioned Applicant, seeking an Interlocutory Order pursuant to Section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 (POCA) as amended. The Applicant seeks an order prohibiting the 1stand 2nd Respondent from disposing of, or otherwise dealing with, whole or any part of the property, set out in the Table to the Notice of Motion dated 29 September 2023.

[2] The Respondents are:

a) Rino, Barry D'unienville; ("Rino") holder of NIN 994-0572-1-1-47 who resides at Anse-Possession, Praslin and

b) Transformer Enterprise (Pty) Ltd ("the Company").

[3] The Company's Directors and Shareholders are;

(a) Mrs. Myriam D'unienville (Myriam) who holds 60% of the shares. Myriam is Rino's biological mother;

(b) Rino D'unienville who holds 25% of the shares; and

(c) Nayla Dominique Shereen Moyes who is Rino's Ex Partner and holds 15% of the shares.

[4] The details of the specified property set out in the Table to the Motion is given below:

i) S24400: a New Port Blue Subaru Impreza now valued at SCR 130 000.00;

ii) S26991: a White Isuzu Forward Truck now valued at SCR 350 000.00;

iii) HC385: a White and Blue Hire Craft Monohull now valued at SCR 1 430 000.00.

The total value of the properties is SCR 1, 910,000.00.

[5] The Applicant also seeks an Order pursuant to Section 8 of the POCA as amended in open court on 3 July 2026 appointing ASP Marcus Jean the Head of the FCIU to be the receiver of the said property. It also seeks that notice be served on the Respondent.

[6] Accordingly, notice was served on the Respondents and Mr. Rino D'Unienville the 1st Rrespondent filed his affidavit in reply dated 08 November 2023. In his reply affidavit, the 1st Respondent denies that the vehicles bearing registration numbers S24400 and S26991 and the Hire - Craft were acquired by money laundering or that the money used to purchase the specified properties was from drug trafficking. He further states that he is the proprietor of a truck business since 2016 and earns a substantial income from the said business. He also raised funds from the sales of vehicles owned by him. He further avers that the money with which he purchased the properties comes from a legitimate and legal source and that in accordance with applicable law, there was no obligation to disclose to the SLA the source of the money, which was used to purchase the properties.

[7] On the 21 November 2023, Counsel for the Respondents filed a Notice of Motion MA 385/2023 for an order that Sergeant Jeanne be tendered for cross-examination. The Notice of Motion was accompanied by an affidavit. The Respondent argues that in accordance with his right to a fair trial, it is imperative that they have the opportunity to cross-examine Sergeant Jeanne in respect of the factual averments and allegations made by him in his affidavit.

[8] On the 25 April 2024, the Government of Seychelles filed a Notice of Motion consenting to the motion for the Respondents in this application to cross-examine witness during the hearing of the Application.

[9] It wold be pertinent at this stage to set out the relevant law pertaining to this application The law as contained in the Section 4 of the POCA requires proof that:

a) A person is in possession or control of –

(i) Specified property and that the property constitutes, directly or indirectly benefit from criminal conduct; or

(ii) Specified property that was acquired, in whole or in part, with or in connection with the property that directly or indirectly constitutes benefit from criminal conduct and

(b) The value of the property or the total value of the property referred to in sub paragraphs (i) and (ii) of paragraph (a) is not less than R 50,000.

[10] It is apparent from the application that the value of the specified property set out in in the table totals a sum of is SCR 1, 910,000.00 and therefore the value in SCR exceeds well over SCR 50,000. Therefore, the requirement as set out in Section 4 (b) of the POCA has been established.

[11] It is the contention of learned Counsel for the Applicant that the said property is proceeds from criminal conduct. In order to establish this fact, learned Counsel relies on the evidence in the affidavit filed by Sergeant Jeanne dated 29 September 2023.

[12] The affidavit states that the specified properties remain the subject of an *Ex Parte* application brought by the FCIU and that on 30 August 2023, the Chief Justice granted the application in *XP 60 of 2023* and as a result, an interim order and an order was made to appoint Sergeant Jeanne as the Receiver of the said property. A copy of the said order is attached as exhibit "DJ1."

[13] The investigation against the Respondents by Sergeant Jeanne resulted in a further Interim order "DJ2" in *XP 41 of 2023* being issued on the 11 July 2023, in respect of Toyota CHR bearing registration number S37456 which also belongs the 1st Respondent. It is the contention of the Applicant that the investigation of Sergeant Jeanne has revealed that the said properties referred to above have been obtained from criminal conduct namely drug trafficking and money laundering. Further, Mr Jeanne states that the 1st Respondent with

intention to deceive and/or mislead, used the 2nd Respondent Company ("the Company") to further conceal the way in which he acquires and comes into possession of his assets.

[14] Sergeant Jeanne in his affidavit further states that the Seychelles Police's database of which he has access to and found an entry, that on 17 May 2016, the 1st Respondent was arrested at the then Wharf Hotel for possession of herbal materials suspected to be controlled drugs, along with five other associates. He further states at the time of his arrest in May 2016, he was found with a large quantity of cash totalling a sum of SCR 74,995.00 on him and investigations revealed the source of his funds was criminal conduct of drug trafficking and money laundering.

[15] Analysis of the 1st Respondents bank records revealed that his first and only bank account with the MCB was only opened back in November 2016. This is indicative that all along, the 1st Respondent was transacting in cash and it is the belief that he opted not to transact using the bank then because he would not have been able to account for the source of the cash, because during the time, he was unemployed. During this time as well, he had no businesses registered on his name. The bank account opening documents and bank statements were annexed, as exhibit "DJ3."

[16] Sergeant Jeanne further states investigations conducted by him with SLA, revealed that on 30 May 2016, the 1st Respondent purchased a White Isuzu Forward Truck with registration number; S9804. The purchase price was never disclosed to SLA. The supporting documents from the SLA to prove same produced as "DJ4."

[17] Further investigations reveal that on the 08 November 2018, the 1st Respondent sold the said Isuzu Forward with registration S9804 to one Marcus Dubel ("Marcus") for a sum of SCR 500,000.00. Attached with the vehicle transfer form, was an MCB fund transfer form dated 07 November 2018, confirming that Marcus transferred a sum of SCR 500,000.00 from his MCB account No: 00000321866 to Rino's MCB account No: 00000312556. The requests made to SLA and documents received based on the requests has been marked exhibit "DJ5." As part of the investigation, more research was done on whether the accounts truly existed at the MCB and it was found that the two bank accounts did not exist at the said MCB.

[18] Sergeant Jeanne's investigations revealed that the transfer forms, which were attached to the SLA documentations, were manipulated and orchestrated by the 1st Respondent and

Marcus to make authorities believe that the transaction was legitimate. This clearly indicates the 1st Respondent colluded with the cashier in the bank. On analysing the said manipulated transfer form, it was found that it was duly stamped by a cashier at the MCB bearing identification number: 0501 and that the 1st Respondent with intention colluded with the said cashier to manipulate the information used on the form to make it look like the bank account existed. This reveals that the 1st Respondent manipulated the system to conceal the true source of funds, which was derived from drug related activities. Based on the findings of Sergeant Jeanne above, coupled with the fact that the 1st Respondent had manipulated his way into the financial system, it is averred that there was no actual physical transfer of ownership of the said Isuzu Forward with registration S9804. This was a scheme to conceal his ownership of the said vehicle and to facilitate the further purchase of another "truck."

[19] On 12 November 2018, the 1st Respondent purchased a White Isuzu Forward Truck with registration number S26991 for a sum of SCR 300,000.00 in cash. The Respondent in the comment section states that he had sold his truck; S9804 and purchased this truck from the SCR 500,000.00 he received from the sale. However, investigation as explained above reveal that there was no such transfer of funds as the accounts numbers given did not exist. Therefore, this Court is satisfied that the new truck S26991 was purchased not from the sale of truck S9804 but from illicit activities drug trafficking and money laundering. This truck is now registered in the name of the 2nd Respondent company hence the inclusion of the Company as the 2nd Respondent.

[20] Sergeant Jeanne further states in his affidavit that the SLA documents retrieved based on request indicated that on 23 July 2018, one Kevin Charles of Baie Ste Anne Praslin, transferred a Subaru Impreza, which at the time was bearing registered number S28554 to the 1st Respondent. As per the Change of Ownership Document, it was stated that the payment of SCR 200,000.00 was made by instalment a year prior and there were no receipts to prove the payment. Copies of the transfer documents as obtained from the SLA was marked as exhibit "DJ7." Further investigation and perusal of the statements; "DJ3," revealed that in 2016 there were two credits in the MCB account amounting to SCR 35,300.00.

[21] In 2017, there were also two credits in the account amounting to SCR 125,400.00. Analysis of the account shows that the credit in the account originated from contract payment from SLTA and was all used up in daily personal expenses. There were no activities on the account to indicate instalment payment in respect of a vehicle. There were no indications that there were part payments directed for purchase of vehicle. It is clear that the Respondent has failed to explain the source of his income for the purchase of the said vehicle and has lied to SLA in his declaration, indicating that the funds were acquired from proceeds of crime namely; drug trafficking and money laundering.

[22] Sergeant Jeanne further states that during his investigations he retrieved from Seychelles Maritime Security Authority ("SMSA") a declaration of ownership form where the 1st Respondent has stated that he is the owner of "Aaliyah"; a 9.42-meter-long and 2.78 meters wide Monohull charter boat with two 300hp Suzuki outboard engines. On the same document, it was noted that the said boat was constructed at a boat yard at Baie Ste Anne Praslin in 2017 and the said declaration form was signed by the 1st Respondent and his lawyer; Mr. Nichol Gabriel, on 16 August 2018. On that same day, he was issued with a license, which was valid until 15 August 2019, to operate the said boat as a hire craft.

[23] However, the bank statements when investigated did not verify the funds being used for the purchase and construction of the hire craft and it was revealed that in 2017, there were only two credits in his account for a total sum of SCR 125,400, which was all used up in different daily expenses. It is averred that cash in hand obtained from illegal drug transactions was used to facilitate the construction of this vessel. Further, costly repairs were done on the said vessel details of which have been included in the affidavit of Sergeant Jeanne making the total value of the boat SCR 1,480,000.00. Sergeant Jeanne had verified with the MCB whether any loans were taken to facilitate the repair construction of the boat and found that there was none. His investigations revealed that the 1st Respondent would go to great lengths to pursue his scheme, for instance manipulating bank forms. Sergeant Jeanne is of the belief that with all the evidence that he had gathered, that the specified properties mentioned herein, are proceeds of crime namely; money laundering and drug trafficking

[24] Sergeant Jeanne states that search of premises of Myriam D'unienville on 31 August 2023 resulted in a green file being recovered from the left hand side of the bed; in a bedroom occupied by Myriam containing several invoices and receipts. The receipts recovered indicate payment for construction of a swimming pool which details are set out in exhibit "DJ9'. The expenses incurred in respect of medical treatment, purchase of a damaged boat from one Simon Payet by the 1st Respondent, for a sum of SCR 125,000.00 in cash were also revealed. After purchase, Mr Payet then assisted the 1st Respondent to move the boat onto a property near his, where the 1st Respondent undertook necessary repair works on the said boat, which is now named Aaliyah.

[25] Sergeant Jeanne confirmed under cross-examination that he had sworn two affidavits in the case. The first affidavit, dated 29 September 2023, supported the application for the interlocutory order. A supplementary affidavit appeared in two copies bearing different dates, namely 30 April 2024 and 20 May 2024, although the contents appeared to be identical. He confirmed that the application concerned three properties: a blue Subaru Imprezza bearing registration number S24400, a white Isuzu FWD truck bearing registration number S26991, and a white and blue hire-craft bearing registration number HC385. He admitted that he had not personally accessed the banking system to verify whether the accounts existed but that this information in relation to the Isuzu truck came from Eddie Rose of MCB. He stated that the Police had served a warrant and relied on the documents provided by MCB. It was suggested to Sergeant Jeanne that his evidence was based on hearsay and not his personal knowledge or belief.

[26] It should be borne mind that the Sergeant Jeanne's evidence is based on bank statements and registration documents emanating from MCB and the SLA. This evidence is documentary evidence obtained further to a warrant issued by Court. This documentary evidence cannot be considered hearsay evidence. It is documentary evidence that originates from the source itself the bank or the public authority dealing with licensing details on a warrant issued to the bank by Court and SLA as such information is required for investigation purposes. It is obvious that it would not be possible for Sergeant Jeanne to personally look into the computers of the bank. Mr Hoareau has not challenged the

authenticity of such documents nor requested an opportunity to cross-examine the witnesses on their statements, though an opportunity was given to him.

[27] The bank statements and public documents are issued by Officers working in the respective institutions and in whose custody such information is kept and persons are authorised by the Bank and SLA to provide such information, as and when a warrant for such information is issued by Court. For these reasons, there is no merit in the learned Counsel's argument that the only evidence against his client is hearsay evidence, as Mr Jeanne has not personally got the information himself. The documentary evidence speaks for itself and Mr Jeanne is entitled to base his belief on such documents when the authenticity of such documents have not have been challenged. Had there been a challenge then the maker of the document would have had to come and give evidence and be subject to cross-examination.

[28] In Government of Seychelles v Siglfiore and Ors (MA 05/2019) [2019] SCSC 612, (22 July 2019), Twomey CJ explained that in POCA cases a combined reading of provisions of Section 170 of the Seychelles Code of Civil Procedure, Rule 6 of the POCA Rules and Section 9 of POCA, shows that affidavits in support of applications under section 4 of POCA may contain evidence that is to either the information, personal knowledge or belief of the deponent.

[29] I find that the belief evidence of Sergeant Jeanne is corroborated by the documentary evidence provided and am satisfied that the Applicant has established that the specified property mentioned herein is proceeds of crime. He has clearly established that the 1st Respondent relies on false documentation to explain his income is not derived from the proceeds of crime.

[30] In the case of Financial Intelligence Unit v Contact Lenses Ltd & Ors [2018] SCSC 564 at [15] it was held that *" once the applicant establishes his belief that the property is the proceeds of crime, the burden of proof shifts to the Respondent to show that it is not"*

[31] The 1st Respondents attempts to show that he purchased a white Isuzu Forward Truck with registration number S26991 for a sum of SCR 300,000.00 in cash from the funds he

received for the sale of his truck S9804. However, investigation as explained above reveal that there was no such transfer of funds and the MCB fund transfer form dated 7 November 2018 confirming that Marcus (the alleged purchaser) transferred a sum of SCR 500,000.00 from his MCB account No: 00000321866 to Rino's MCB account No: 00000312556 was false and investigations revealed no such accounts existed.

[32] Similarly, no acceptable explanation was forthcoming in respect of where the funds came from for the purchase of vehicle Subaru Impreza bearing registered number S28554 by the 1st Respondent. As per the Change of Ownership document, it was stated that the payment of SCR 200,000.00 was made by instalment a year prior but there were no receipts to prove the payment nor did the 1st Respondent's bank account statements indicate such instalment payments. This Court is also satisfied that no acceptable explanation exists in respect of how the 1st Respondent raised the funds to purchase the hire craft boat Aaliyah and spend large sums of money to repair it. The total value spent being SCR 1,480,000.00.

[33] None of the explanations of the 1st Respondent is acceptable and some even proved to be false. For the aforementioned reasons. I am satisfied that the belief evidence by way of affidavit of Sergeant Jeanne can be accepted as it is supported by other attached documentation including bank statements and documentation from the SLA and witness statements.

[34] I am satisfied on consideration of Sergeant Jeanne's belief evidence that there are reasonable grounds to suspect that the specified properties constitutes directly or indirectly, benefit from criminal conduct, or was acquired in whole or in part with or in connection with property that is directly or indirectly benefit from criminal conduct.

[35] I am also satisfied that the Applicant has established on a balance of probabilities that the property constitutes benefit from criminal conduct and its value is over SCR 50,000.00. The explanations given by the 1st Respondent to show that the funds were not derived from the proceeds of crime have clearly been proved to be false and are unacceptable to this Court and this Court proceeds to reject same.

[36] I therefore proceed to grant the reliefs as prayed for by the Applicant and issue the following orders:

d) An Interlocutory Order pursuant to Section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended prohibiting the 1st and 2nd Respondents from disposing of or otherwise dealing in whole or any part of the properties, or diminishing the value of the specified properties.

e) That on the making of an order under (a) above, ASP Marcus Jean shall be appointed as Receiver over all or part of the said properties to manage, keep possession or dispose of, or otherwise deal with any other properties in respect of which he is appointed in accordance with the Court's direction, pursuant to Section 8 of the Proceeds of Crime (Civil Confiscation) Act, 2008 as amended, and

f) A copy of this Order to be served on the 1st and 2nd Respondents, the Receiver ASP Marcus Jean and Seychelles Licensing Authority.

Signed, dated and delivered at Ile du Port on this 03 July 2026.

3-July 2026.

M. Burhan J