

SUPREME COURT OF SEYCHELLES

Reportable

MA 228/2024

(Arising in CS43/2019)

In the matter between:

EVELINA MARCHESSAU

(rep. by France Bonte)

Applicant/Judgment Creditor

and

EUDOO (PTY) LTD

(rep. by Khalyaan Karunakaran)

Respondent/Judgment Debtor

Neutral Citation: *Evelina Marchessau v Eudoo (Pty) Ltd* (MA228/2024) [03 April 2025]

Before: Burhan J

Summary: Application by Judgment Creditor to enhance monthly payments.

Heard: 19 November 2024

Delivered: 03 April 2025

ORDER

I make order that the Respondent (Judgment Debtor) pay a sum of SCR 5000.00 (five thousand) monthly in settlement of the debt with effect from 1st April 2025.

ORDER

BURHAN J

- [1] The Applicant Evelina Marchessau, the Judgment Creditor in the main case CS 43/2019 filed this application stating the following by way of an affidavit dated 17 September 2024:

1. *“Judgment was entered on 3rd October 2019 in my favour for the sum of Rs 791,700 plus interest and costs. Costs have been taxed at Rs 9,500 and interest is at Rs 31,668 totalling to Rs 832,868.*
2. *The above sum of Rs 832,868 still remains unpaid.*
3. *That I filed an execution and a return of Nulla Bona was made as the Process Server found nothing to seize*
4. *The Judgment Debtor was failing to pay the sum of Rs832,868 and he is now paying a monthly sum of Rs1000/- and this is insufficient as he shall die leaving this debt unpaid.*
5. *That I pray this Honourable Court that the Rs1000/- being paid by the Judgment Debtor be increased to Rs25,000/- per month until the debt be fully paid.”*

- [2] Thereafter, notice was issued on the Respondent who came to Court on the 6th November 2024 and moved through his Attorney at Law Mr Kalyan that as his client's Social Security funding will end in July 2025 that this application be considered at that time.
- [3] This application for postponement to July 2025 was not granted and the Court fixed the matter for inquiry for the 19 November 2024.
- [4] On 19 November 2024, the Respondent was present in person and informed Court, he was not filing a reply but will answer the application personally and would do so orally. It appears his Attorney at Law had advised him to do so.
- [5] He proceeded to make submissions to Court that he admits he is doing a Government project constructing a bus shelter at Au Cap. He admitted the contract was for SCR 180,000/- but he gets zero profit. He was doing the contract because the Government is asking in their Tender Form, the details of the work he has done for the past three years and he could include this project as one. He submitted that for the past four years, he was not in business as he was unwell and he has his medical certificates to prove same. He further stated he took this project to get into the system because he will not be getting his

Social Service welfare payment from July next year and that he is not receiving anything and not making any profit from the project. He states he does not need profit money from the project to eat, as at present he gets welfare money. He further stated that all the money he gets from the project, goes into expenses and he receives a lump sum.

- [6] The Respondent handed over to Court a document which was marked JD1. It shows an advance of SCR 36,000 being paid to him from the SCR 180,055.64 which is a 20% advance. It also specifies what the 1st interim payment would be. The Respondent showed the expenses document which was marked as JD2. He then tendered invoices for labour which had to be paid by him. He further stated that he does not have any workers of his own and he hires labour from another company.
- [7] He produced invoices for materials he had bought on credit marked as JD4. He stated that he had an agreement with the workers that he pays them all when they finish the work. The Respondent then showed the contract for the construction of the bus shelter and bus lay-by at Au Cap. A copy of the contract was marked as JD5. The Respondent then showed two medical papers that show he is getting welfare till July 2025, in order to prove that he is not in business. He stated he took the bus stop project because it is not stressful. In the building of the bus stop, he gets paid and pays the workers and for the materials when they pay him the money. The Respondent tendered a general normal form of tender to Court as JD6. He showed another document from SLTA that stated that they had informed him that his price was too low and for that price he will not be able to do the job. However, the Respondent had told them to give him the job. He tendered the letter from SLTA to court marked JD7. Document marked JD8 he stated is a breakdown of the whole project and the tender results, JD9 was also tendered to Court by the Respondent. The Respondent then tendered two medical reports JD10 and JD11 that states he was fit enough to do this project.
- [8] Thereafter, Mr Bonte also made oral submissions. He submitted that Court should order that a sum of 30,000 should be taken from this money to pay his client because the Respondent eats, drinks, in addition, he is getting social security also. So there must be money for his client.

[9] I have considered the facts before me and the documents tendered to Court. The Respondent admits that he received the contract from the Government to build the Au Cap bus shelter and layby which in total was SCR 180, 055. 64. He states he gave a low quotation for the tender which is supported by the letter JD7 where SLTA states themselves that he would not be able to do it for that price. However, he wanted the project as he wanted to be in the system for a period of three years, so that he can get other projects. In support of this, he produced JD 6 an incomplete and unfilled Tender Document which has a title at heading 1.1 stating “*Work performed as prime Contractor on works of a similar nature and volume (Above Five Hundred Thousand) over the last Three (3) Years*”. He was able to convince them he can do it at that price. He admits in his evidence getting paid for the said project. He produced another incomplete document referred to as a contract document JD 5 which refers to the agreement being entered on the 2nd of July 2024 and states that the date of completion of work as 9th October 2024. It appears that from his evidence that he has already been paid for the contract.

[10] It is apparent therefore especially when one considers document JD7 that on this particular project his profit was minimal. When one considers document JD10, a letter dated 26th June 2023 from the Agency for Social Protection, it informs the Respondent that the medical board has certified that he is unfit for work for a further period of 2 years. This is why the Respondent states to Court that his Social Security welfare payment will end in July 2025. The penultimate paragraph however makes interesting reading and states as follows:

“Please note, that being a recipient of the said benefit this does not prevent you from conducting other form(s) of economic activity, be it through some form of employment or running a business, to the contrary we at the Agency encourages such activities. Doing so this will not mean that you will lose your entitlement in full, rather your benefit will be reduced by 25% of the total additional income that you earn.”

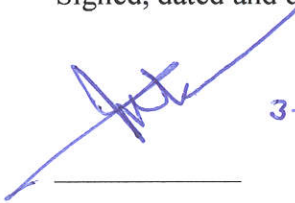
[11] Considering that the Respondent admits he has successfully completed one project, taking all the above facts into consideration, this Court is of the view and makes a finding that the

Respondent (Judgment Debtor) is capable and has the capacity of earning an income more than the Social Security income he receives from the Agency.

[12] I therefore make order that the Respondent (Judgment Debtor) pays a sum of SCR 5000.00 (five thousand) monthly in settlement of the debt with effect from 1st April 2025.

[13] He is warned that he will be committed to civil imprisonment if he fails to do so on the next date.

Signed, dated and delivered at Ile du Port on 3 April 2025



3-04-2025

M Burhan J