

IN THE SUPREME COURT OF SEYCHELLES

Reportable

[2025]

MA273/2024

(arising out of MC01/2023)

In the matter between

MUKESH ABHAYAKUMAR VALABHJI

(rep. by Samantha Aglae & France Bonte)

APPLICANT

AND

THE COMMISSIONER OF POLICE

(rep. by Lansinglu Rongmei)

RESPONDENT

Neutral Citation: *Mukesh Valabhji vs The Commissioner of Police (MA273/2024)*

Before: D. Esparon

Heard: By way of written submissions

Delivered: 06 February 2025

JUDGMENT

Esparon J

Introduction

- [1] This is an application for a Writ Habere facias Possessionem seeking an order from this Court that the Respondent quit, leave, vacate his property known as parcel B39 at Morne Blanc, Mahe Seychelles.

The Pleadings

- [2] The Application is supported by the Affidavit of the Applicant Mukesh Valabhji who avers the following inter-alia in his Affidavit;

‘2. That I am the owner of property known as Parcel B39 at Morne Blanc Mahe, Seychelles.

Proof of ownership is hereby produced and marked as exhibit MVI.

3. that I am the Respondent as per a detention order dated 13 September 2022 in CM 97 of 2022 has taken possession of my property (which consist of matrimonial home, a semi-detached 2 bedroom apartment and separate independent kitchen, laundry and storage facilities. The detention order dated the 13th September 2022 is hereby produced and marked as Exhibit MV2.

4. that the said order was renewed as per last order dated 9th November 2022 and 9 December 2022 for a further 60 days until 8 January 2023. The Detention Order dated 9 November 2022 and 9 December 2022 are hereby produced and Marked as exhibit MV3.

5. That as per the Court proceedings dated 6 January 2023 the respondent requested the Court to maintain the status quo of the said order because proper service had not been made and the duty Judge was not the Judge seized with the matter namely CM 97 of 2022.

6. That the detention of my property in CM 97 of 2022 has been fixed for mention before Burhan J who is seized with the matter on 18th January 2023.

7. That as per detention order dated 9 November 2022 the said order ends on 8 January 2023 and the Respondent is detaining my property without lawful authority.

9. That the Respondent is illegally detaining my property, he is now a trespasser and has no license, permission or authority and never been given such by myself or any of my representatives or by Court Order’.

[3] The Respondent on the other hand has filed an affidavit in reply to the Application dated 08 February 2023, sworn by Davis Simeon a detective sergeant attached to the Criminal Investigation Division who avers inter-alia the following;

‘3. That the property parcel B39 at Morne Blanc was under detention of the respondent as per

the order by his Lordship Justice Burhan on the 9th December 2022 in case CM 97 of 2022 arising from CR04/2022 for a period of 60 days with effect from 9th November 2022.

4. That the detention order was to expire on 8th January 2023. The Respondent herein filed the necessary application for extension on the 27th December 2022. It came up for consideration of the Supreme Court on the 30th December 2022 on which the matter was adjourned at the request of the Applicant herein. The matter was thereafter mentioned again on the 6th January 2023 before the duty Judge his Lordship Justice Adeline.

5. That in order to enable the applicant to file his objections and for proper adjudication of the extension application, the Honourable Judge Adeline ordered the matter to be mentioned on the 18th January before Honourable Judge Burhan and in the meantime ordered the 'status quo' be maintained.

6. That on the 6th January 2023, the property was still under detention as ordered by Honourable Judge Burhan. The status quo ordered by his lordship Justice Adeline was to continue the said detention till January 2023 when the matter is to be mentioned before Justice Burhan.

7. That thereafter the applicant herein sought for clarification on the order of '' status quo'' and his Lordship Justice Adeline made a Ruling on the 17th January 2023 and in paragraph 6 of the said ruling, it was clearly set out that the order was to, maintain the '' status quo'' whereby the property in question which was under detention would remain under the detention until the presiding Judge Justice Burhan would determine the Application for renewal. The ruling on the 17th January 2023 is hereby produced and marked as DS1.

8. That further on the 18th of January 2023, Honourable Judge M. Burhan further extended the detention order till the 27th of February 2023.

9. That in view of the above, the property was under continuous lawful detention as ordered by the Court and the Respondent is therefore under lawful authority to detain the property.

10. that the allegations in paragraphs 7,8,9 and 10 of the Affidavit of the Applicant are denied as correct in the light of the statement made therein. That the Applicant is not entitled to a writ habere facias possessionem of the property as prayed for.

11. that I'm advised by counsel and verily believe to be true, that the application has been made without bona fide or reasonable cause of action and amounts to an abuse of process of Court for which the applicant has to be mulcted with punitive cost for sheer wastage of precious time of the Court and the counsels'.

[4] The Respondent filed a Notice of motion seeking leave of the Court to file a further affidavit in reply of which Counsel for the Applicant did not object to the said application. As a result, the Court granted leave to the Respondent to file a further Affidavit in reply to the Application.

[5] The said Affidavit is sworn by Detective sub-inspector Davis Simeon who avers inter-alia the following in his Affidavit;

'4. Following the filing of the reply, the proceedings were halted on the 27th February 2023, after counsel for the Applicant indicated that they had initiated proceedings to appeal the Ruling of Adeline J, dated 17th January 2023.

5. In the meantime, on the 7th June 2023, Chief Justice Govinden delivered an order (2023) SCSC 420 (CR 04/2022) in respect to the property in question, parcel B 39, declaring it validly produced in trial in the case CR 04/2023 (which is annexed) as DS 2).

7. I am advised by Counsel for the Applicant that:

- a. it has become necessary to assist this Honourable Court in its determination of the matter by producing Court order (2023) SCSC 420 (CR 04/2022), which

proves that the property in question, parcel B39, is no longer under detention by the Applicant as it has been validly produced in trial case CR 04/ 2022.

- b. This Court Order was not available at the time the Applicant filed its Affidavit in reply; and
- c. It is just and fair to allow the Respondent to place this Court Order before the Court, which has been known to the Respondent since the day of its delivery’.

Submissions of Counsels

- [6] Counsel for the Applicant submitted to the Court that in view of Judge Adeline’s Order to maintain the status quo, as per the detention order dated 9 November 2022, the said order ended on the 8 January 2023. However, the Respondent continued to detain the Applicants property without lawful authority.
- [7] The Respondent submitted to the Court that there can be only 2 types of detention order under the PTA, namely a detention order, which we will refer to as initial detention order and thereafter, renewal orders of initial detention order. Learned counsel for the Applicant relied on section 25 (6) of the Prevention of Terrorism Act and submitted that every order under sub-section 4 (which refers to detention orders) is for 60 days and can be renewed for further period of 60 days. According to Counsel there is no provision for orders less than 60 days.
- [8] Counsel further submitted that there is an ambiguity in the law and if the legislature would have intended to make such orders less than 60 days they should have expressly said so and hence the Court should have given the PTA its literal and ordinary meaning otherwise we would be calling on this Court to re-write the law from the bench.

- [9] It is submitted by counsel for the Applicant that when Adeline J. made an order to maintain the status quo, this Court has to accept that the learned judge did not make a renewal order in view of what he said at paragraph 5 of his ruling dated the 17th January 2023. According to Counsel in view of the circumstances, Judge Adeline's explanation was that he meant that the order was to be extended until 18th January 2023 is null and void ab initio because it is ultra vires the PTA and hence the Respondent had definitely unlawfully held the property from 9 January to 18 January 2023.
- [10] Furthermore, according to counsel, the extension order made by Burhan J. is not provided for by the PTA and is not a renewal order and as such it also did not meet the criteria for a renewal order given that it was less than 60 days. As a result, the order of Burhan J. falls to be ultra vires the PTA and this null and void ab initio and hence the Applicant had been unlawfully holding the property of the Applicant as once the order has elapsed it cannot be extended or renewed.
- [11] Counsel for the Applicant relied on the case law namely the case Boniface V Malvina (SCA 41 of 2017), Delphinus Turistica Maritime SA V Villebrod 1978 SLR 28 at 121, Danjhee V Habib Bank (1989) SLR 169, Ah- Thou V Dang Kow (1987) SLR 117, Fikion V Cecile and others (Civil Side No 22 of 2011) (2011) SCSC 47 (28th July 2011), the case of Searles V Pothin (SCA 32 of 2021) (2023) SCCA 51 (25 August 2025), Faiz Mubarak Ali, Hairu Investment Management Services SCA 25/2018 (10 May 2019) and further submitted that an applicant who has established a right to property should be granted the writ unless the Respondent has raised a Bona fide and serious defence.
- [12] Counsel for the Applicant submits that the Applicant has proven his ownership through exhibit MV1 and that the ownership of property has not been challenged by the Respondent. According to counsel, the Applicant has no alternative remedy to request the return of his home except through this Application. According to counsel, the only defence raised by the Respondent is that the duty judge made an order for the status quo to be

maintained pending the determination made by the presiding Judge and that this was unequivocally accepted by Judge Adeline in his clarification Ruling dated 17th January 2023 that his order was not in any shape a form amount to a renewal order. As such the Respondent has not been able to prove that there has been any lawful and valid detention or renewal order made pursuant to the PTA and hence the Respondent does not have a bona fide defence to prevent the said writ from being ordered. Further the said property has fallen in a state of dilapidation.

- [13] In reply to the submission of Counsel for the Applicant, counsel for the Respondent also relied on section 26 (4)(1) of the PTA and sub-section 5 of the said provision of the law and submitted that the adjournment by Justice Adeline was to allow the Applicant time to file objections and ordered that the matter be mentioned before his Lordship Justice Burhan on the 18th January 2023. In the interim, the Honourable Judge Adeline further ordered that the 'status quo' be maintained. That on the 17th January by way of ruling (23) SCSC 11 CM 97/2022, Justice Adeline clarified that the 'status quo' meant that the property would remain in detention of the Respondent until the matter could finally be determined by Justice Burhan and that on the 7th June 2023, after considering all the objections and submissions of the parties, the Hon'ble chief Justice by way of order (2023) SCSC 420 allowed the production of the property in criminal proceedings CR 4 of 2022 pursuant to section 26 (5) of PTA. The Court further ordered that the property is to remain under the care and custody of the Respondent in terms of section 98 of the Criminal Procedure Code.
- [14] Counsel for the Respondent relied on the case of Maxime Marie V Pedro Boniface (MC 24/2024) and submitted that the Respondent does not dispute the Applicant's ownership but that given that it has been lawfully detained under judicial orders issued by the Supreme Court, including Order (2022) and order (2022) SCSC 1080 CM 97/2022. According to counsel, the orders provide the Respondent with a bona fide defence to the Applicant's claim for immediate return of the property, as they have been issued by a competent Court of law and remain in force unless set aside in appropriate proceedings and thus the Applicant's claim according to counsel is without merit.

- [15] Additionally, according to Counsel the property has now been validly produced in trial proceedings related to the offence under the PTA. As such the detention order no longer applies in its previous form, and the property is under the lawful care and custody of the Respondent. Furthermore, Counsel further submitted that the orders issued by the Supreme Court are final and binding, and remained unchallenged and consequently, these orders cannot be subjected to challenge via ancillary actions, such as an Application for issuance of a writ of habere facias possessionem and furthermore, according to counsel for the Respondent, the Respondent has a bona fide defence and as such he Application should be dismissed.
- [16] In reply to counsel for the Respondent Submissions, counsel for the Applicant submitted to the Court that at the time of the filing of the present Application, the order of Govinden CJ dated 7th 2023 had not been filed. So at the time of filing of the Writ Habere Facias Possessionem, the Respondent had been holding B39 unlawfully.
- [17] Counsel for the Applicant further submitted that the Order by Govinden CJ does not legitimize the unlawful detention of B39 by the Respondent since there were no renewal of the said detention order by Adeline J. as the renewal order lapsed on the 8 January 2023 and as such Burhan J could not have made a renewal order in view that the previous order had already lapsed by the time the case was mentioned before him.
- [18] Furthermore, counsel relied on section 98 of the Criminal Procedure Code and submitted that such production can only be made in accordance with this section by producing the said property as exhibit and giving an exhibit number which in this particular case the said exhibit was not given an exhibit number and in any case it was the deed that was produced in court not the property itself and hence the property has not been lawfully produced in Court and hence there is no lawful basis for the Respondent continued occupation of the

said property since the lapse of the said detention order on 8th January 2023. As such Counsel submitted that the Respondent does not have a valid defence.

Analysis and Determination

[19] The general principles governing writs of habere facias possessionem has been laid down in the case of Lesperance v Intour (2001) SLR 28, whereby the court laid down the following guiding principles;

- a. The Court in granting relief acts as a court of equity and exercise its equitable powers in terms of section 6 of the Courts Act;
- b. Those who come with equity should come with clean hands;
- c. There should not be any other legal remedy available to the Applicant who seeks an equitable remedy;
- d. The remedy is available to the applicant whose need is of an urgent nature and to whom any delay in the remedy would cause irreparable loss and hardship;
- e. The Court should be satisfied that a Respondent has no bona fide and serious defence to make; and
- f. If the remedy sought to eject a Respondent who is occupying the property merely on the benevolence of the applicant, then that respondent should not have any right or title over the property.

[20] In the case of Lesperance v Vidot SCA 25/2007, LC 316, the Court held the following;

'To succeed in obtaining a writ of habere facias possessionem, the owner must show clear title to the property in lite. The law needs title, not title-deed, because a person may hold a title deed with a questionable or dubious title'.

- [21] It is not in dispute that the Applicant has a clear title to the property in lite. As regards to the issue that such a remedy being an equitable remedy, this Court is of the view that the issue of the Applicant coming with clean hands is neither here nor there since the order of the Honourable Chief justice dated the 7th June 2023, (2023) SCSC 420 of which the chief Justice had allowed the production of the property in criminal proceedings CR 4 of 2022. Since this order was made after the filing of the Application which was dated the 3rd January 2023, it cannot be said that the Applicant in the application had an obligation to disclose such facts to the Court. Since bad faith has to be proven by the Respondent and the Respondent has not done so, this Court finds that the Application has been made in good faith.
- [22] As to whether the Application of the Applicant is of an urgent nature and to whom any delay in the remedy would cause irreparable loss and hardship to the Applicant, the Applicant in his submission has submitted that the said property has fallen in a state of dilapidation. There is no averment in the Applicant's Affidavit to substantiate such allegation that such a remedy sought by the Applicant is of urgent nature and to whom any delay in the remedy would cause irreparable loss and hardship. In fact, the Applicant has submitted to the Court that the said property is in a dilapidated state without substantiating such an allegation. As such this Court finds that the Applicant has not shown to the Court that the Application of the Applicant is of an urgent nature and to whom any delay in the remedy would cause irreparable loss and hardship to the Applicant.
- [23] The other issue to be determined by this Court is as to whether there are any other legal remedy available to the Applicant who seeks such an equitable remedy. I note that both of the orders of Judge Adeline namely the order of Judge Adeline dated the 6th January 2023 and that of the ruling he made on the 17th January 2023 both of which stands unchallenged

on Appeal. Furthermore, the ruling of Judge Burhan dated 18th of January 2023 extending the said detention order suffers the same faith. Although there were subsequent adjournments as to the Applicant Appealing to the said orders, the Applicant has not appraised the Court of what happened to the said Appeal if indeed there was any.

[24] This Court finds that the appropriate legal remedy for the Applicant is to Appeal from the said orders instead of coming to this Court by way of an Application for a Writ Habere Facias Possessionem. Hence since there is another legal remedy available to the Applicant, such an Application should not have been brought before this Court.

[25] The last issue to be determined by this Court is as to whether the Respondent has no bona fide and serious defence to make. This Court hereby reproduces section 26 (5) of the Prevention of Terrorism Act which sates as follows;

‘Subject to subsection (6), every detention order made under subsection (4) shall be valid for a period of 60 days and may on Application, be renewed by a judge of the Supreme Court for a further period of 60 days until such time as the property referred to in the order is, where applicable, produced in Court in the proceedings for an offence under this Act in respect of the property’.

[26] Counsel for the Applicant submitted to the Court that in view that when Adeline J. made the order to maintain the ‘status quo’ this Court has to accept that the learned judge did not make a renewal order. According to Counsel, in view of the circumstances that such an order is null and void ab initio because it is ultra vires the PTA despite the judge’s ruling dated the 17th January 2023 clarifying the matter and hence the Respondent had definitely unlawfully held the property from 9 January 2023 to 18 January 2023 since the court can only renew the order for a period of 60 days and not less as has been ordered by Adeline J. in the said orders. Counsel for the Applicant submitted to the Court that the words used

should be given its ordinary literal meaning but admitted that there is an ambiguity in the said provision of the law.

[27] This court has carefully perused Section 26 (5) of the Prevention of Terrorism Act and is of the view that there is a necessity to interpret the word 'shall' in the said provision in order to determine whether the said period namely 60 days of which the Court should renew the order is mandatory or only directive only. As regards to this issue, this Court sought guidance from decisions from a commonwealth jurisdiction namely from decisions of courts in India.

[28] In the case of Mohan Singh V International Airport Authority (1997) 9 SCC 132, the Court stated the following;

'The word 'shall', though prima facie gives impression of being mandatory character, it requires to be considered in the light of the intention of the legislature by carefully attending to the scope of the statute, its nature and design and the consequences that would flow from the construction thereof one way or the other. In that behalf, the Court is required to keep in view the impact on the profession, necessity of its compliance; whether the statute if it is avoided, provides for any contingency for non-compliance; if the word 'shall' is construed as having a mandatory character, the mischief that would ensue by such construction; whether the public convenience would be sub served or public inconvenience that may ensue if it is held mandatory and all other relevant circumstances as required to be taken into consideration in construing whether the provision would be mandatory or directory'.

[29] In the case of Sumita Devi V Ahbesh Kumar Simba, AIR 2005 Pat 136, where the time limit in filing written statements was in issue. After the amendment of the Code of Civil procedure, 1908, in 1999 and 2002, parties were ordinarily required to present their written statement within 30 days from the service of summons. However, where the Defendant

failed to file the statement within the prescribed period, the Court could for reasons to be recorded in writing allow for an extension, provided that the extension shall not be later than 90 days from the date of service. In this case, the trial Judge rejected the written statement because it was presented after the period of 90 days had expired. The question was whether the trial Court possessed any discretion in the matter. On revision, the High Court opined that the use of the word 'shall' was to be construed as placing a mandatory obligation, except in cases where it would lead to absurdity, or if such a construction was at variance with the intent of the legislature or was bound to cause failure of justice. The Court noted that sections 148 and 151 of the CPC allowed a certain amount of discretion to the Court to avoid miscarriage of justice. Hence, it ruled that the trial court need not refuse an extension only because the period of 90 days has expired.

[30] In the present matter, this Court notes that that the intention of the Legislature is expressly stated in section 26 (5) of the Prevention of Terrorism Act where it provides that 'may on Application, be renewed by a judge of the Supreme Court for a further period of 60 days until such time as the property referred to in the order is, where applicable, produced in Court in the proceedings for an offence under this Act in respect of the property'. (emphasis added to the underlining words). This Court is of the view that to give such a construction that the court cannot make an order to detain such a property less than 60 days shall not only be at variance with the intent of the legislature but would also lead to absurdity. Hence, this Court holds that the Court has a discretion under section 26 (5) of the Prevention of Terrorism Act to order the property to be detained or such detention order to be renewed for a period of less than 60 days. The Court clarified its order in a ruling dated 17th January 2023 where Judge Adeline clarified that the 'status quo' meant that the said property namely B39 which at the time was under detention would remain under detention until the presiding Judge that is Judge Burhan determines the Application for renewal of the detention order.

[31] This being the case, counsel for the applicant submitted that the words maintaining the 'status quo' is not a renewal order and hence the order is invalid. In the case of Andre

Bristol V Ellen Rosenbaue SCCA MA 28/2021 [2022] SCCA 23 (29 April 2022), Twomey JA. stated the following;

‘Unlike the express provisions relating to the Supreme Court, neither the Constitution nor the Courts Act confers upon the Court of Appeal a primary “inherent jurisdiction” as it has been submitted it has. In any case, it appears that the phrase “inherent jurisdiction” is loosely used by Counsel or the Court when there is no provision of the law to fall back on to provide a remedy not catered for. In most cases, the use of the term is inappropriate as it seems not to refer to jurisdiction but to residual powers of common law courts, notably that of England. Counsel frequently urge the court to utilise its inherent jurisdiction in response to failures of procedural justice. In the absence of a specific statutory jurisdiction, the concept is also often invoked by judges to give efficacy to judicial proceedings. But when a court is called to exercise its inherent jurisdiction, so that it can properly regulate its own proceedings, it is essentially called to exercise a function that it already has or has already been clothed with, or to exercise a power in order to allow its orders to be effective. As has been pointed out, few concepts in the common law are so invoked and yet remain so nebulous.¹¹ Sir Jack Jacob defines the concept as:

“[...] residual source of powers, which the court may draw upon as necessary whenever it is just or equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice between the parties and to secure a fair trial between them.”

[32] In the case of Axiom Rolle PRP Valuation Services Ltd V Rahul Ramesh Kapadia and

Others NZAC 43/06 inherent powers has been defined as;

"an entitlement in law to use a procedural tool to hear and decide a cause of action in the Court within jurisdiction. An inherent power is exercisable by all courts. It is a power which is incidental and ancillary to the primary jurisdiction. A court invokes its inherent power in order to fulfil its constitutionally-ordained function as a court of law. Inherent powers attach where a court has already been granted jurisdiction. Inherent powers

necessarily accrue to a court by virtue of the very nature of its judicial function or its constitutional role in the administration of justice. Thus, inherent powers are part of a court's resources; they are a necessary addition to the judicial function, facilitating the proper functioning of courts within the framework of jurisdiction granted to it by statute. Thus, whilst inherent jurisdiction is substantive, inherent powers are procedural".

[33] In the present matter, it appears that the Court granted an adjournment and maintained the status quo as clarified by the ruling of Adeline J dated the 17th January 2023 in order to give the respondent the opportunity to answer the Application. For the purpose of clarity, this Court hereby reproduces section 26(4) of the prevention of Terrorism Act which reads as follows;

‘A judge to whom Application is made under subsection (3) shall not make a detention order in respect of the property referred to in the Application unless the judge –

(a) has given every person appearing to have an interest in the property a reasonable opportunity of being heard;

(b) has reasonable grounds to believe that the property has been, as is being used to commit an offence under this Act’.

[34] Since there seems to be a lacuna in the law and there is no legal provision dealing with the matter, in order to give effect to section 26(4)(a) of the Prevention of Terrorism Act for reasons of affording the Respondent the opportunity to answer the Application hence affording a fair hearing to the Respondent as enshrined in the Constitution in response to failures of procedural justice in order that it can properly regulate its own proceedings *by virtue of the very nature of its judicial function or its constitutional role in the administration of justice exercised its inherent powers by virtue of section 4 and section 6 of the Courts Act and adjourned the proceedings to the 18th of January 2023 in order to allow the Respondent to answer to the Application and be heard in accordance with section 26(4) (a) of the Prevention of Terrorism Act.* In doing so the learned Judge ordered to maintain the ‘status quo’ as clarified by the ruling dated the 17th January 2024. Hence I

find that the said Orders made by Adeline J. in the said matter is not invalid and was proper in the circumstances.

- [35] Learned Counsel for the Applicant submitted to the Court that such production can only be made in accordance with section 98 of the Criminal Procedure Code by producing the said property as exhibit and giving an exhibit number which in this particular case the said exhibit was not given an exhibit number and in any case it was the deed that was produced in court not the property itself and hence the property has not been lawfully produced in Court. In all due respect to counsel for the Applicant, this Court is of the view that counsel is splitting hairs in raising this issue since the only way that the property can be produced as exhibit in accordance with the said section of the Criminal Procedure Code albeit in view later on to file an Application to forfeit the said property to the Republic. The fact that it was not marked but produced, this Court is of the view that it was validly produced as exhibit. Although it was not physically produced as exhibit, this Court is of the view that it is a well-established principle of our law of evidence that exhibits that cannot be physically produced in Court or lost or cannot be found may be produced by means of photographs and in this case it was by means of a deed since it could not be physically produced in Court. Hence, I accordingly hold that the said exhibit being the property namely B39 had been validly produced in Court.
- [36] In considering the effect of Judge Burhan's Order dated the 18th January 2023 renewing the said detention order and the order of the Chief Justice dated the 7th June 2023 producing the said property as exhibit, guidance may be sought with the case of *University of Seychelles- American Institute of Medicine V/S Attorney General SCA MA 5/2013* where the court of Appeal, Justice A.F.T Fernando, held that in view of the dismissal of the plaint, the necessity to grant a stay of execution of judgment cannot arise'.
- [37] As a result of the order of Burhan J. renewing the said detention order dated the 18th January 2023 and the order of the Chief Justice dated 7th June 2023 producing the said property in

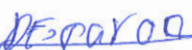
court as exhibit as well as the above case law cited, this Court is of the view that events in the said matter before this court have moved on as a result of the said valid orders and hence this Court finds that the necessity of making such an order namely a Writ Habere Facias Possessionem cannot arise and as such in the event that the said order was granted, it would serve no purpose in view of the facts of the present matter.

[38] As a result of the above. I also find that the Respondent in the matter has a bona fide and serious defence to make.

[39] In view of the above, I accordingly decline to grant the said Application and dismiss the said Application with cost.

[40] The Applicant has a right of Appeal within 30 days of this Judgment

Signed, dated and delivered at Ile du Port on 06 day of February 2025.


D. Esparon J.