

SUPREME COURT OF SEYCHELLES

Reportable

[2024]

MA 288/2024

(Arising in CS88/2024)

In the matter between:

THE ATTORNEY GENERAL

(rep. by Nissa Thompson)

Applicant

And

KRISHNA MART & COMPANY

PROPRIETARY LIMITED

(unrepresented)

Defendant

Neutral Citation: *AG v Krishna Mart & Company Proprietary Limited* (MA 288/2024) [2024]
(25 February 2025).

Before: Carolus J

Summary: Substituted Service – Section 42 Seychelles Code of Civil Procedure.

Delivered: 25 February 2025

ORDER

Carolus J

- [1] The Attorney General (applicant in this motion) has filed a plaint on behalf of the Government of Seychelles in CS88/2024 against the company Krishna Mart & Company Proprietary Limited (respondent in this motion) for recovery of unpaid taxes from the latter. The address of the respondent/ defendant company as stated in the caption of the plaint is its registered address namely Castor Road, Mahe Seychelles. Service of summons to appear to answer to the plaint on 23rd October 2024 was unsuccessful at that address. The return of summons stated that “*The foregoing summons has not been served for the reason that for Krishna Mart is found closed and there is no registered office at Castor Road*”.
- [2] The applicant now seeks the following through this motion:

- (a) *An Order pursuant to Section 42 of the Seychelles Code of Civil Procedure granting leave to serve the Respondent by way of substituted service as may be just.*
- (b) *In addition, and/or in the alternative to the above, an order that service be effected by affixing summons at the address of the last known place of business of the Respondent at English River, Mahe, Seychelles and affixing a copy in some conspicuous part of the Supreme Court.*
- (c) *Such further or other Order as to the Court shall seem just and proper in all the circumstances of this case including an Order providing for costs.*

- [3] The motion for substituted service is grounded on an affidavit affirmed by Varsha Singh, the Revenue Commissioner of the Seychelles Revenue Commission who states that he is duly authorised to make the affidavit. Mr Singh avers that the registered address of the respondent/ defendant company is listed as Castor Road, Mahe Seychelles and in support has exhibited the “*Notice of the situation of the registered office of a Company or of any change thereof*” dated 18/7/79 and filed at the Company Registry which confirms the same.
- [4] Mr Singh avers that due to the listed address being non-specific, the process server could not effect service on the respondent/defendant company. Further that from internal investigations conducted, the conclusion is that the respondent/defendant company’s registered office cannot be found based on the address provided to the Companies Registrar and that there is no agent empowered to accept service on its behalf.
- [5] He avers that the Registration Division has provided the particulars of the directors of the respondent/defendant company for service to be effected on the directors, as evidenced by the return of “*Particulars of Directors and Secretaries*” dated 05th December 2005 and filed with the Registration Division, which is exhibited. As per this document the directors at the date of the return are P. Krishnamurthy Pillay, Rani Sulochana Pillay and Saroja Pillay.
- [6] Mr Singh states that the Immigration Department has informed the SRC that Saroja Pillay is out of the jurisdiction, and have exhibited details of her travel history from 21/07/2000 to 19/01/2009 when she left Seychelles. He states that the Immigration Department has also informed the SRC that they have no information on Rani Sulochana Pillay. As for Krishnamurthy Pillay, it is averred that he passed away in 2020 and in support an article of the Seychelles Nation dated 30th April 2020 to that effect is exhibited.

[7] Mr Sigh avers that for these reasons it is imperative that summons to appear to answer the plaint is affixed at the address of the last known place of business of the respondent/defendant company at English River, Mahe, Seychelles and a copy of the said summons be affixed in a conspicuous location at the Supreme Court, pursuant to Section 42 of the Seychelles Code of Civil Procedure (“SCCP”).

[8] Service on companies are provided for under section 55(1)(d) of the IGPA which reads:

55. (1) A document or notice required or permitted to be served on, or given to, a person under for the purposes of an Act, may be served or given –

(d) in the case of a body corporate, by leaving it at or sending it by post to the registered or principal office of the body corporate;

[9] Substituted service is provided for under sections 42 (under which the present application is made) and 43 of the SCCP which read as follows:

42. If the defendant cannot be found and there is no agent empowered to accept service on his behalf, nor any other person on whom service can be made, or if the defendant is keeping out of the way for the purpose of avoiding service, it shall be sufficient service to affix the summons on the outer door of the house or place of business of such defendant and a copy thereof in some conspicuous part of the Court House.

43. When service has been made in the manner mentioned in section 42 and the defendant does not appear on the day stated in the summons, the court may either, after making such inquiry as appears, to be necessary, declare the summons to be served and proceed in the absence of the defendant, or give such further order as to service as to the court may deem fit.

[10] At first glance, it would seem that service may be effected on the respondent/defendant company by way of substituted service by affixing the summons on the outer door of its last known place of business in terms of section 42 as its registered office cannot be found at Castor Road (as per the return of summons), none of its surviving directors can be found and there is no agent empowered to accept service on the company’s behalf. However, it must be borne in mind that the purpose of such service is to give notice to the respondent/defendant company of the proceedings against it in CS88/2024. If summons

are affixed at its last place of business in Seychelles, it is highly unlikely that this will serve the purpose of giving notice to the company of the proceedings against it, given that one of its surviving directors has left the country since 2009 and the whereabouts of the other director is unknown.

- [11] Furthermore, the court requested proof of ownership of the property at which substituted service is sought to be effected. The applicant has provided a Certificate of Official Search in respect of Title V3146 dated 19th November 2024 which shows that one Rajarajacholan Pillay of Bel Ombre, Mahe, is the proprietor of such property. It is clear that the property is not in the ownership the respondent/defendant company or any of its directors.
- [12] It does not appear therefore that substituted service at the premises at English River is the appropriate means of service which would give notice to the respondent/defendant company of the proceedings against it.

Decision

- [13] In the circumstances and for the reasons given above, the application for substituted service is dismissed.

Signed, dated and delivered at Ile du Port on 25th February 2025.



Carolus J