

SUPREME COURT OF SEYCHELLES

Reportable

MA 58/2025

(Arising in CM 33/2024)

In the matter between

PATRICK GRANDCOURT

(rep. by Ms Kimberly Pillay)

Petitioner

And

SEYCHELES PETROLIUM COMPANY LIMITED

(rep. by Mr Olivier Chang-Leng)

Respondent

Neutral Citation: *Grandcourt v SEPEC MA 58/2025 (Arising in CM 33/2024) (27th August 2025)*

Before: N. Burian, J

Summary: *Postponement of Sale – Commandment - Immovable Property (Judicial Sales) Act – section 36 of the Immovable Property (Judicial Sales) Act*

Heard: 16th July 2025

Delivered: 27th August 2025

ORDER

Application is dismissed.

RULING

N. BURIAN, J

Introduction and background facts:

[1] This Ruling arises from an application for a postponement of the sale of immovable property, namely, land parcels PR 5842, PR 5843, PR 5844 and PR 471, which application is filed by Mr Patrick Grandcourt pursuant to section 36 of the Immovable Property (Judicial Sales) Act ('IPJS Act').

- [2] By way of background facts, a commandment was filed on the 6th May 2024 against Mr Patrick Grandcourt, the registered proprietor of land parcels PR 5842, PR 5843 and PR 5844 to be seized and sold to recover a debt owed to the Respondent.
- [3] The present application is made by way of notice of motion supported by affidavit, brought by the Execution Debtor ('Petitioner') against the Respondent pursuant to section 36 of the Immovable Property (Judicial Sales) Act. It is averred in the affidavit in support of the motion that the Petitioner is a 72-year-old pensioner receiving a monthly sum of SR 5000/- as pension and he is not in receipt of any social security benefit. Additionally, he receives a monthly sum of SR 24,000/- from the rental of houses situated on land parcels PR 5842 and PR 5843.
- [4] According to the affidavit evidence of Mr. Grandcourt, he will have no alternative accommodation and will become destitute as well as losing his only source of income if the sale goes ahead as planned. It is further claimed that great hardship will be suffered by those residing on parcel PR 471 if the sale proceeds however Counsel for the Petitioner has now acknowledged that the execution is not being pursued against parcel PR 471.
- [5] The Petitioner further alleged that he was and is prepared to sell one parcel of land with a house situated thereon in order to pay off some of the debt owed to the Respondent but the Court notes that despite giving the parties an extended period of time to settle the dispute they have been unable to reach a settlement.
- [6] The Respondent in reply objects to the postponement of the sale on the basis that the Petitioner has failed to show any strong grounds of necessity and expediency to warrant a postponement of the sale sine die. According to the Respondent, the Petitioner had failed to substantiate his claims contained in paragraphs 5 and 6 of the affidavit in support of the motion, specifically the averments in respect to his monthly earning of SR 5000/- from the Seychelles Pension Fund and his alleged reliance on the rental of SR 24,000/- earned from houses situated on parcels PR 5842 and PR 5843.

- [7] Further, emphasis has been placed on the fact that the Petitioner owes to the Respondent the sum of SR 10,047,295.29/- exclusive of interest and costs which debt arises out of a Judgment of the Supreme Court dated 9th September 2019 and that despite it being nearly 6 years ago, the Petitioner has failed and neglected to make any payments whatsoever towards the judgment debt despite having ample time to do so. According to the Respondent, the Petitioner has failed to take any proactive steps to settle the debt and therefore his claims that he would be destitute if the properties were sold is unacceptable in light of the enormity of the debt and the length of time that has transpired since the delivery of the judgment.
- [8] It was also brought to the Petitioners attention that parcel PR 471 no longer forms part of the proceedings and therefore any claim of hardship in respect of this parcel of land and to those residing on the property is irrelevant and thus should not be taken into account by the Court when coming to its decision.
- [9] Lastly, the Respondent avers that although the Petitioner claims that he is prepared to sell one of the parcels of land to partially settle the debt, he has not demonstrated any tangible steps in doing so.
- [10] Counsel for the Petitioner has taken the opportunity to file written submissions in which she has reiterated her client's financial hardship and claims of harm that will result from a sale of the properties in question. She makes reference to the case of *Seychelles International Mercantile Banking Corporation Limited v Bastienne and Anor (CM 06/2024) [2025]* in which case this Court considered the meaning of 'strong grounds of necessity and expediency' and was of the opinion that they refer to situations where actions are justified due to a compelling need or pressing urgency that outweighs other considerations such as a compelling need to avoid harm. It is thus counsel's contention that the present application for postponement falls within the situation as defined above and as such the sale of parcel PR 5842, PR 5843 and PR 5844 should be postponed sine die by this court.

Law and Analysis:

[11] Section 36 of the IPJS Act provides for the postponement of sale –

“36. *Postponement of Sale*

Nevertheless, the sale may be postponed either sine die, or to a specified day, at the instance of the execution creditor or of any one of the inscribed or judgment creditors, or the execution debtor; but only upon strong grounds of necessity or expediency to be established to the satisfaction of a Judge. The decision of the Judge postponing the sale shall be final and without appeal.”

(Emphasis added)

[12] Section 36 of the IPJS Act thus empowers the court to postpone the sale "upon strong grounds of necessity or expediency". This Section came up for interpretation in the case of *Lorenzo Appiani v Mary Geers* (unreported) Civil side 35 of 95) where it was held that the mere application for further time to pay was considered to be inadequate for purposes of postponing the sale under section 36 of the Act.

[13] As highlighted in the case of *SIMBC v Bastienne* (supra), I am of the view that strong grounds of “necessity or expediency” generally refers to a situation where actions are justified due to a compelling need or a pressing urgency that outweighs other considerations. Suggesting that a compelling reason, either based on an urgent need to avoid harm or the practical advantages of a course of action, justifies a deviation from standard rules or norms.

[14] The question of whether judicial sales should be postponed sine die for humanitarian reasons based on the ground of necessity is a complex one, without a straightforward answer. I have found no clear precedent addressing an application for postponement based on the reasons akin to those advanced by the Petitioner. Consequently, I am of the view that the determination of whether to grant a postponement in this instance must rest on the particular circumstances of the case before me, and will ultimately be guided by the

exercises of my judicial discretion in assessing whether those circumstances meet the threshold of necessity.

- [15] I am of the view that whilst hardship or humanitarian reasons although not falling under the definition of ‘legal necessity’ can be considerations in an application for postponement, however they must be substantial and the reasons must outweigh the interests of the other parties involved, including the Respondent, especially if I am to postpone the sale sine die.
- [16] I have considered the severity of the hardship that may be incurred by the Petitioner. In the present case, despite his claims of hardship, the Petitioner has not provided the Court with any documents in support to show that he has taken steps since the filing of the commandment to settle the debt or to find himself alternative accommodation. As rightly pointed out by the Respondent, the Petitioner has failed to support his claims made in paragraphs 5 and 6 of the affidavit in support of his motion.
- [17] I have considered the context of the sale, such as the reason for the debt, the nature of the property and the impact on the Petitioner. I agree with Counsel for the Respondent, that if the willingness to settle the debt was genuine, then active steps would have been taken to repay the debt and there is no evidence of this. I am thus not satisfied that the Petitioner has done everything in his power to mitigate his situation or made any genuine effort to pay off the debt.
- [18] I am of the view that there are many options that exist to mitigate the hardship. The Petitioner should be taking active steps to propose a more viable payment plan. I place emphasis on the fact that the parties have been given ample time by this court to settle the matter and it is unfortunate to note that no settlement has been possible.
- [19] I am of the view that if the Court indefinitely postpones the sale, the Respondent’s right to enforce the judgment becomes uncertain or effectively suspended. It further runs the risk of eroding confidence in the legal system’s ability to enforce legitimate claims. This creates unpredictability in the enforcement process and risks setting a precedent where personal circumstances override legal obligations, no matter how long the debt remains unpaid.

- [20] I am further of the opinion that by postponing the sale sine die it would delay the recovery and increase the risk for the Respondent. The property may deteriorate in value over time, especially if not maintained. The interest will continue to accrue, potentially compounding the debt and reducing the net recovery.
- [21] Judicial sales are designed to be efficient, final, and enforceable remedies and indefinite postponements would thus in my opinion contravene the very core objectives of judicial enforcement mechanisms which in my view may lead to unequal treatment of debtors and unfairness to creditors.

Conclusion:

- [22] To conclude therefore, while it is undeniable that the Petitioner will experience a degree of hardship and inconvenience as a result of the sale, I am of the view that an indefinite postponement would impose an even greater hardship on the Respondent. The Petitioner has had ample time to address the potential consequences of the sale, having been aware of the Respondent's intention to seize and sell the property since the issuance of the commandment in May 2024, however he has failed to take any proactive steps to settle the debt nor to find himself alternative accommodation.
- [23] I am of the opinion that a postponement sine die would not resolve the underlying issue of accommodation, as the sale will ultimately proceed unless the Petitioner is able to settle the outstanding debt. Given the size of the debt it is neither fair nor reasonable to expect the Respondent to postpone the sale on humanitarian considerations alone and the courts must balance compassion with legal certainty. The execution of judgments is a critical component of the administration of justice and the rights of the judgment creditor must also be respected.
- [24] While Section 36 of the IPJS Act allows the Court discretion to postpone the sale for good cause shown, such discretion must be exercised judiciously, and not in a manner that would indefinitely frustrate the enforcement of lawful debts. In this case, the Petitioner has not shown that alternative arrangements or relief (such as viable payment proposals or alternative accommodation) have been actively pursued. Furthermore, the Court notes that

mere hardship, without more, is generally insufficient to indefinitely halt judicial sales, particularly where the rights of creditors are affected.

Order:

[25] This Court is therefore not satisfied that the Petitioner has done enough to show that strong grounds of necessity or expediency exist to grant a postponement in this instance and as such the motion to postpone the sale is denied.

Signed, dated, and delivered at Ile du Port on 27th August 2025.

N. Burian, J

Judge of the Supreme Court