

IN THE HIGH COURT OF FIJI
AT LAUTOKA
IN THE WESTERN DIVISION

[APPELLATE JURISDICTION]

CIVIL APPEAL NO. HBA 10/2015

JDS APPEAL CASE NO. 86 OF 2015

PRITESHNI PRITIKA CHAND

APPELLANT

-v-

RONAL AVINESH PRASAD

RESPONDENT

Appearance : Non-appearance for appellant
Respondent in person

Date of Hearing : 20 September 2016

Date of Ruling : 20 September 2016

R U L I N G

1. This is an appeal against the Magistrate Court's finding that the Judgment Debtor (appellant) wilfully neglected to pay the Judgment Debt despite having means to pay. The learned Magistrate accordingly committed the appellant to prison for 30 days.
2. The appellant is absent in court today. This is the second consecutive non-appearance by the appellant. Previously, on 19 May 2016 the appellant agreed to pay and settle the JDS in full within the first week of June 2016 and the respondent was amenable to that proposal. The appellant also indicated that she will settle the JDS sum and

withdraw the appeal. Accordingly, she made payment of \$2000.00, which is half of the JDS amount. The Respondent admits that he received a sum of \$2000.00 from the Appellant.

3. As it is the second consecutive default of appearance by the appellant, it seems to me that the appellant is not interested in prosecuting the appeal. The appellant had notice of the hearing when she appeared in person on 19 May 2016. I would therefore acting under ORDER XXXVII, rule 13-(1) of the Magistrates' Court Rules, Cap 14 dismiss the appeal for failure of the appellant to appear when her appeal is called on for hearing and for want of prosecution with summarily assessed costs of \$300.00 payable by the appellant to the respondent.

Final Orders

1. Appeal dismissed.
2. The Appellant will pay \$300.00 to the Respondent as costs of this appeal.

M H Mohamed Ajmeer 20/9/16

M H Mohamed Ajmeer

JUDGE

20 September 2016
At Lautoka

