

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

Civil Action No. HBC 285 of 2007

BETWEEN : **VIJENDRA** of Namuka, Sigatoka, Farmer

PLAINTIFF/APPLICANT

AND : **NAUSHAD ALI** of Vatulaulau, Ba, Cultivator

1ST DEFENDANT/RESPONDENT

AND : **THE DIRECTOR OF LANDS,** Suva

2ND DEFENDANT

Counsel : Ms Barbara Doton for Plaintiff/Applicant
Non-appearance for first Defendant/Respondent
Second defendant - discharged

Date of Hearing : 20.10.2016

Date of Ruling : 20.10.2016

R U L I N G

1. The plaintiff/applicant ("the applicant") files a notice of motion supported with an affidavit sworn by Mohan Dass, and seeks to reinstate the matter that was struck off the cause list.
2. On 4 October 2016, the Court struck out the matter as there was no appearance by or for either party when the matter was called for mention only.
3. The affidavit filed by the applicant in support of the application explains the circumstances that led to the default in appearance by the applicant. Under paras 4 and 5 of the affidavit, the applicant states:

“ ...

4. THAT on the 3rd day of October 2016 I am advised by the Plaintiff's solicitors and verily believe that the Plaintiff's solicitors sent written instructions to their city agent, Messrs AC Law to appear on their behalf in this matter.

5. THAT I have been advised by the Plaintiff's solicitors and verily believe that at the time when the matter was called Mr Ravneet Charan of Messrs AC Law was attending to another matter before Justice Mr Sapuvida and therefore could not attend to this matter as that material time.

...”

4 This application is not objected to by the respondent although it was served upon him by way of substituted service by advertising in the Fiji Sun of 1st of October, 2016.

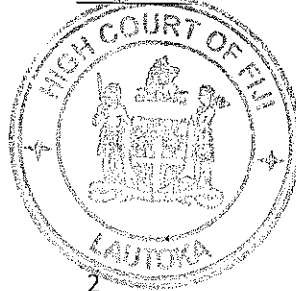
5 I am satisfied with the explanation given by the applicant for non-appearance on 4 October 2016. I am also satisfied that the non-appearance on that day was unintentional.

6 I therefore set aside the striking out order made on 4 October 2016. Accordingly, I re-instate the matter back to cause.

M H Mohamed Ajmeer
..... 20/10/16

M H Mohamed Ajmeer

JUDGE



20th October 2016

At Lautoka