

IN THE COURT OF APPEAL, FIJI
[On Appeal from the High Court]

CIVIL APPEAL NO. ABU 22 of 2024
[High Court Case No. HBM 68 of 2020]

BETWEEN : **NIMILOTE KEREVI** *Appellant*

AND : **DIRECTOR OF PUBLIC PROSECUTIONS** *Respondent*

Coram : Prematilaka, RJA

Counsel : Appellant absent and unrepresented
: Ms. M. Konrote for the Respondent

Date of hearing : 29 October 2024

Date of Ruling : 09 December 2024

RULING OF THE COURT IN CHAMBERS

[1] This is an appeal against the High Court judgment dated 13 February 2024¹making the following orders.

“ORDERS

1. *All the properties, vehicle registration no. JK 240, Vehicle Registration No. HQ 811 and a balance sum of \$11,287.83 standing in the 3rd Respondents [HOINVEST ENTERPRISE] Bred Account No. 00360044019 are tainted properties.*

¹ **Director of Public Prosecutions v Kerevi** [2024] FJHC 98; HBM68.2020 (13 February 2024)

2. *The vehicle Registration no. JK 240 and Balance sum of money of \$11,287.83 at the Bred Bank Account No. 00360044019 are to be immediately forfeited.*
3. *A Civil Forfeiture order is hereby granted over the above mentioned properties:
 - (i) *Vehicle Registration Number JK 240;*
 - (ii) *Vehicle Registration Number HQ 811; and*
 - (iii) *Balance sum of Money of \$11,287.83 standing in Bred Bank Account No. 00360044019 accordingly.”**

[2] The High Court made the above orders following the respondent’s amended substantive originating summons on 30 June 2020 seeking for the Civil Forfeiture Order over the above properties in terms of section 19C to 19E of the Proceeds of Crimes Act and was supported by the affidavits.

[3] The appellant’s appeal in person was timely where he claims to have been the owner of vehicle Number JK 240 before the forfeiture order. MIQ Lawyers had later filed a notice of appointment of solicitor’s for the appellant and had appeared in the Court of Appeal on a number of days.

[4] On 24 June 2024, in the presence of lawyers for both parties, the Chief Registrar had fixed security for cost at \$3000.00 to be paid within 28 days and records to be filed thereafter in terms of Practice Direction No. 01 of 2019.

[5] The appellant failed to pay security for cost on or before 22 July 2024 which was apparently the last day for the payment. Accordingly, the appellant is in breach of Rule 17(1) (b) of the Court of Appeal Rules and the appeal should be deemed abandoned in terms of Rule 17(2).

[6] However, the Chief Registrar had not marked the appeal as “having been abandoned” and not submitted the matter for judicial sanction in order for the “notice of abandonment” to be sent to the appellant as per paragraph 8 of Practice Direction No. 01 of 2023.

[7] In the meantime the appellant had filed summons on 03 September 2024 seeking an extension of time to pay the security for cost on the basis that (as per his affidavit) his son who was financing his cases developed issues in communication with him and when he came to the CA Registry to pay \$3000.00 as security for cost thinking that he was within time, he was informed that he was already out of time.

[8] As directed by this court on 17 September 2024, the respondent had not filed an affidavit in opposition to the appellant's application.

[9] A single Judge's power to extend the time within which security for cost should be paid is well documented². Given all the circumstances above, I cannot say that the appellant has failed to exercise reasonable diligence in complying with the Chief Registrar's order for security for cost. Thus, having considered all the matters above referred to, I make the following orders.

Orders of court

- 1) *Extension of time to pay security of costs for the prosecution of the appellant's appeal is granted till 31 December 2024.*
- 2) *Should the appellant fail to comply with Order 1 above, the Chief Registrar is directed to enter in the Record that the appeal is "deemed to have been abandoned" for non-compliance, and send the appellant a notice of abandonment.*
- 3) *The said indulgence granted to the appellant as per Order 1 above is also subject to the appellant paying costs of this application in a sum of \$1,500.00 to the respondent on or before 31 December 2024.*
- 4) *The failure to comply with Order 2 and or Order 3 above would result in the appellant's appeal being dismissed for want of prosecution and non-compliance.*
- 5) *Registry to communicate this Ruling to the appellant, his solicitors and the respondent forthwith.*



Hon. Mr. Justice C. Prematilaka
RESIDENT JUSTICE OF APPEAL

² **Instant Holdings (trading as Instant Hire Services) v Verma** [2022] FJCA 193; ABU0022.2021 (9 November 2022)