

IN THE HIGH COURT OF THE REPUBLIC OF FIJI
AT LAUTOKA

[CIVIL JURISDICTION]

Civil Action No. HBC 050 of 2013

BETWEEN : **AVINESH KUMAR** of Greyellen Lodge,
Olosara, Sigatoka, Manager
1st Plaintiff

AND : **BIRONDA FIJI LIMITED t/a TRUE BLUE**
HOTEL a liability Company registered under
the Companies Act of Fiji the office at Lot 3
Queens Road, Sigatoka, Fiji.
2nd Plaintiff

AND : **ANANT RAJ** of Olosara, Sigatoka,
Businessman
Defendant

Before : Acting Master M H Mohamed Ajmeer

Appearances:

Mrs Naidu for the Plaintiffs
Mr Meru for the Defendant

Date of Hearing : 21st May 2014

Date of Ruling : 21st May 2014

R U L I N G

[1] Registry issued Notice dated 9/12/13 pursuant to Order 25, Rule 9 of the High Court Rules requesting the Plaintiff to show cause as to why the action should not be struck out for want of prosecution. That rule provide as follows:

(1) If no step has been taken in any cause or matter for six months then any party on application or the Court of its own motion may list the cause or matter for the parties to show cause why it should not be struck out for want of prosecution or as an abuse of the process of the Court.

2) Upon hearing the application the Court may either dismiss the cause [or] matter on such terms as may be just or deal with the application as if it were a summons for directions.(Emphasis added).

- [2] On 28/3/14 the Plaintiff appeared in person and obtained 21 days for his Affidavit in Response to the notice issued by the registry. He did not file his Affidavit in Response within the time allowed.
- [3] The Plaintiff on 12/5/14 appeared by his Counsel. His Counsel sought 7 final days to file and serve Affidavit in Response. I accordingly granted final 7 days to file and serve his Affidavit in Response. Even then he did not file his Affidavit in Response.
- [4] Today Plaintiff's Counsel seeks to withdraw the action. I cannot allow withdrawal as there is no case for the Plaintiff to withdraw. His cause has already been taken off the Cause List.
- [5] Plaintiff has failed to show cause why the action should not be struck out for want of prosecution. On that ground I struck out the action for want of prosecution, but without costs.



At Lautoka

21/5/2014

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M H Mohamed Ajmeer
A/ Master of the High Court