

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

CIVIL JURISDICTION

CIVIL ACTION NO. HBC 159 OF 2013L

BETWEEN : **SETOKI TUYAWA** of Navatulevu, Narewa Road, Nadi

PLAINTIFF

AND : **THE COMMISSIONER OF FIJI POLICE FORCE** Ratu
Sukuna House, MacArthur Street, Suva.

1ST DEFENDANT

AND : **THE ATTORNEY GENERAL OF FIJI**

2ND DEFENDANT

Appearances:

Mrs Naidu for the Plaintiff

Mr J S Pickering for the 1st & 2nd Defendant

Date of Hearing : 09/06/14

Date of Ruling : 09/06/14

Interlocutory Ruling

1. Before me there is a notice of motion filed, on 02/06/14 by first and second defendants seeking to amend their Statement of Defence filed on 23/01/14 ("the application"). The application accompanies by an

affidavit of John Samson Pickering sworn on 02/06/14 (“the supporting affidavit”). The supporting affidavit annexes a copy of proposed amended Statement of Defence.

2. The application is made pursuant to Order 20, r 5(1) of the High Court Rules 1988 (“the HCR” and the inherent jurisdiction of the Court, that rule provides:

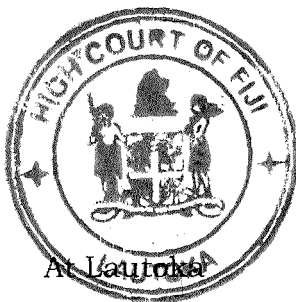
“subject to Order 15, rule 6,8, and 9 and the following provisions of this rule, the Court may at any stage of the proceedings allow the plaintiff to amend his writ, or any party to amend his pleading, on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct”

3. When the matter was taken up before me today, Mr Pickering counsel for the 1st and 2nd Defendants stated that the defendants have genuine reasons for amending the statement of defence and it would not prejudice the Plaintiff if leave is granted for the defendants to do so.
4. Plaintiff did not file any affidavit opposing the defendants’ application to amend the Statement of Defence. Mrs Naidu counsel for the Plaintiff stated in Court that the Plaintiff will consent the defendant to file their proposed amended Statement of Defence.
5. The Court has discretion to allow any party to amend their pleadings at any stage of the proceedings pursuant to O.20, r.5 (1) of the HCR.
6. The Plaintiff did not claim any prejudice if the proposed Statement of Defence is filed by the defendants. Instead the plaintiff consents to the defendants’ application to file their amended Statement of Defence.
7. I therefore, having considered the application and the Affidavit in Support, grant leave for the defendants to file their amended Statement of Defense as per their proposed amended Statement of Defense as it is just do so.

8. Accordingly, the 1st and 2nd defendants are granted leave to file and serve the amended Statement of Defence as per their proposed amendment. The amended statement of defence is to be filed in 14 days and the plaintiff will file and serve a reply to the Amended Statement of Defence in 14 days thereafter. In all the circumstances I make no order as to cost.

Orders

- i) Leave is granted for the defendants to make amendment to the Statement of Defence according to the proposed amendment;
- ii) The defendants are to file their amended Statement of Defence within 14 days of this ruling.
- iii) The plaintiff is to file and serve a reply to the amended Statement of Defence within 14 days.
- iv) No order as to costs.
- v) The matter is now adjourned to 7 July 2014 for mention only.
- vi) Orders accordingly.



09/06/14

M H Mohamed Ajmeer

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M H Mohamed Ajmeer
A/Master of the High Court

Solicitors:

Koyas, Barristers & Solicitors, Nadi for the Plaintiff
Attorneys General's Chambers, Lautoka for the Defendants.