

IN THE HIGH COURT OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

CIVIL ACTION NO. HBC 243 OF 2010

BETWEEN : **ROVIKASH PRASAD** of Matalevu, Tavua, Mechanic
Plaintiff

AND : **DIRECTOR OF IMMIGRATION , Immigration**
Department, Suva
1st Defendant

AND : **COMMISSIONER OF POLICE**, Police Headquarters, Suva
2nd defendant

AND : **ATTORNEY GENERAL OF FIJI**, Suvavou House, Suva
3rd defendant

Appearances:

No appearance for the plaintiff
Mr Pickering for the defendants

Date of Hearing : 25/08/14
Date of Final Order : 25/08/14

FINAL ORDER

- [1] This is a notice issued pursuant to Order 25, Rule 9 of the High Court Rules (as amended) 1988 (HCR) by the High Court Registry at Lautoka to strike out the matter for want of prosecution. Ord. 25, r. 9 provides:

*'9.-(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.*

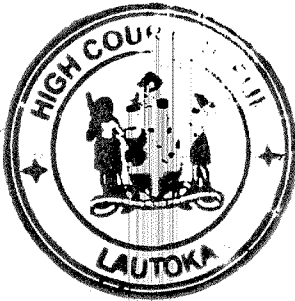
2) Upon hearing the application the Court may either dismiss the cause [or] matter on such terms as may be just or deal with the application as if it were a summons for directions. ' (Emphasis added).

- [2] The notice has been duly served on the Official Receiver, Messrs Krishna & Company as the Plaintiff's solicitor, Mr Haroon Ali Shah was suspended from practice.
- [3] The matter came on for hearing in court today (25/08/14). There was not appearance for or by the plaintiff. Once a notice under Ord. 25, r.9 is issued, the parties must show cause why the action should not be struck out for want of prosecution or as an abuse of the process of the court.
- [4] Counsel for the defendant informed the court that he would support the application for striking out for want of prosecution.
- [5] The plaintiff did not take any step to progress the matter after 26 July 2012. As a result the matter has just been lying in the Registry for about 2 years.
- [6] The plaintiff did not file notice of intention to proceed either. Pursuant to Ord. 3, r.5 of the HCR, he should have filed such a notice after 6 months delay, if he had intention to proceed. Ord. 3, r. 5 provides:

'5. Where six months or more has elapsed since the last proceeding in a cause or matter, the party who desires to proceed must give to every other party not less than one month's notice of his intention to proceed.

A summons on which no order was made is not a proceeding for the purpose of this rule'.

[7] As there is no response to the notice, I struck out the matter for want of prosecution. I make no order as to cost.



**At Lautoka
25/08/14**

M H Mohamed Ajmeer

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M H Mohamed Ajmeer
Master of the High Court