

**IN THE HIGH COURT OF FIJI AT LAUTOKA**

**WESTERN DIVISION**

**Civil Action NO. HBC 97 of 2016**

**BETWEEN** : **REDDY'S ENTERPRISES LIMITED** a limited liability company duly incorporated in Fiji and having its registered office at 35 Ravouvou Street, Lautoka and trading under the name and style of **TANOA INTERNATIONAL HOTEL** and **TANOA PLAZA HOTEL**

**PLAINTIFF**

**AND** : **NATIONAL UNION OF HOSPITALITY CATERING & TOURISM INDUSTRIES EMPLOYEES** a duly registered trade union having its place of business at 15 Sharma Street, Nadi.

**DEFENDANT**

**Counsel** : Mr R Charan for Plaintiff  
Non-appearance for Defendant

**Date of Hearing** : 21.10.2016

**Date of Ruling** : 21.10.2016

**R U L I N G**

1. By summons filed on 3 October 2016, the plaintiff seeks an order transferring this matter to Employment Relations Court. The application is made pursuant to Order 4, Rule 1 (4) of the High Court 1988, as amended ('HCR') and the inherent jurisdiction of the Court.
2. O. 4, r. 1 (4) of HCR provides:

*'Any action commenced in the High Court may be transferred by the Court from one High Court Registry to another or to a Magistrate's Court'*

3. The claim arises out of a Collective Agreement entered into between the parties in December 2011. The plaintiff seeks, amongst other things, declaration that Memorandum of Agreement appended to the Collective Agreement is void and of no legal effect on the ground of misrepresentation and/or unilateral mistake.
4. The dispute between the parties appears to be one that relates to Collective Agreement. Therefore, it is dispute relating to employment. Any issues relating to on Civil Action are industrial or employment issues which might be dealt with by the Employment Relations Tribunal ('ERT').
5. The plaintiff wants the matter transferred to Suva High Court Registry to be transferred to the ERT. According to the plaintiff, the ERT is a division of the High Court.
6. The plaintiff admits that this court has no jurisdiction to hear and determine the matter.
7. In my opinion, ERT is not another division of the High Court. It is a separate Tribunal with exclusive jurisdiction to deal with dispute relating to employment.
8. Therefore, the plaintiff's application is a misconceived one. It should be refused. I accordingly strike out and dismiss the writ and the statement of claim for want of jurisdiction. No order is to costs.

**Final Outcome**

1. Application to transfer the matter is refused.
2. Plaintiff's claim is struck out and dismissed.
3. No order as to costs.

*M H Mohamed Ajmeer 21/10/16*

**M H Mohamed Ajmeer**

**JUDGE**

**21<sup>st</sup> of October 2016  
At Lautoka**

