

**IN THE HIGH COURT OF FIJI**  
**WESTERN DIVISION AT LAUTOKA**  
**CIVIL JURISDICTION**

CIVIL ACTION NO. HBC 212 OF 2016

**BETWEEN** : **BULA BARGAINS LIMITED** a limited liability company having  
its registered office at 115 Vitogo Parade, Lautoka.

**PLAINTIFF**

**AND** : **NAREND PRASAD** aka **NARENDRA PRASAD, SAILESH**  
**PRASAD** and **VIMLESH PRASAD** all of Lautoka and  
Businessman respectively.

**DEFENDANTS**

**Appearances** : Mr E. Maopa for the plaintiff  
Mr Narend Prasad for the defendants

**Date of Trial** : 14 March 2019

**Date of Ruling** : 14 March 2019

## **R U L I N G**

[on dissolution of injunction]

[01] On 5 October 2016, the plaintiff obtained an *ex parte* injunction against the defendants on the following terms:

1. *That the Defendants do release the premises described in the Commercial Lease Agreement dated 1<sup>st</sup> September 2016 being all that portion of the building leased to the Plaintiff and that is currently being held by the Defendant under distress of rent to the Plaintiff forthwith.*
2. *That the defendants and/or its servants and/or its agents be restrained from interfering with the Plaintiff's daily business and operation.*

- [02] The injunction was in relation to a distress warrant issued by the defendants against the plaintiff in order to recover the arrears of rent amounting \$54, 118.50.
- [03] The hearing into interim injunction *inter partes* did not pursue albeit the defendants filed their affidavit in opposition. It is because of the consent and undertaking given by counsel appearing for the defendants, Mr Aman Ravindra Singh on 12 October 2016 that: 'we will not issue any further distress, and we will not disturb the plaintiff's business.' On the basis of that undertaking the court issued an interim injunction restraining the defendants from interfering with the business operation at the premises and from issuing further distress warrant.
- [04] After obtaining the injunction orders on 12 October 2016, the plaintiff, it appears, has stopped payment of monthly rent of \$9,810.00 to the defendants in accordance with the rent agreement. Thus, the plaintiff, according to the first defendant, has defaulted in payment of rent for 27 months to date. When queried by the court, the plaintiff was unable to produce the receipts in proof of payment of rent from October 2016 to date. Instead, she showed some receipts for payment prior to October 2016.
- [05] It is to be noted that the injunction does not prevent the plaintiff from making payment of rent to the defendants. It only restrains the defendants from interfering with the plaintiff's business.
- [06] It has been misunderstood that the injunctive orders effectively prevent the defendants from exercising their legal right to recover arrears of rent. The plaintiff has misused the injunction. I think the injunction should not continue any longer. I would, therefore, dissolve and discharge the interim injunction made on 12 October 2016, forthwith.

[07] The first defendant appears in person and informs the court that his solicitor's practising certificate has not been renewed and sought adjournment so that his solicitor can represent him in the proceedings. In view of this, I think it is expedient to adjourn the trial to another date. I accordingly adjourn the trial to 2 May 2019 at 9.30 am.

**The result**

1. The interim injunction made on 12 October 2016 is dissolved and discharged forthwith.
2. The matter is now adjourned for trial on 02 May 2019 at 9.30 am.

*MH Mohamed Ajmeer*  
*14/3/19*

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**M H Mohamed Ajmeer**

**JUDGE**



**At Lautoka**  
**14 March 2019**

**Solicitors:**

For plaintiff: M/s Babu Singh & Associates, Barristers & Solicitors

For the defendants: M/s Aman Ravindra Singh Lawyers, Barristers & Solicitors