

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 : No appearance for the plaintiff
Mr S Krishna for the defendants
Date of Hearing : 18 April 2019
Date of Ruling : 18 April 2019

R U L I N G

[on *ex parte* summons]

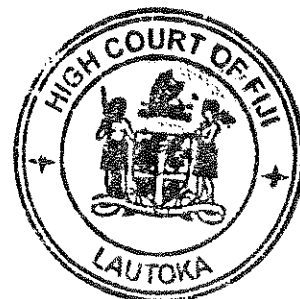
[01] This is an *ex parte* summons filed by the defendants seeking an order that Aman Ravindra Singh Lawyers of Lautoka release the file of documents relating to this matter to the defendants forthwith (*'the application'*). The application is supported by an affidavit of Narend Prasad, the first named defendant where he deposes among other things that:

- a) *Aman Ravindra Singh Lawyers had represented the defendants in the matter until recently when the Practicing Certificate of Mr Aman Ravindra Singh was suspended by the Independent Legal Services Commission.*
- b) *The defendants want the legal representation for the hearing of this file to us so that we could engage the new solicitor however Mr Aman Ravindra Singh refuses and/or ignores our request to release the file and has not released the file to date.*

- [02] The application is made under the inherent jurisdiction of the court.
- [03] Mr Krishna of counsel for the defendants submits that the Court can grant relief against a non-party as the court has jurisdiction to issue contempt proceedings against a third party.
- [04] The order the defendants seek against Mr Aman Ravindra Singh amounts to be a mandatory or a positive injunction without a substantive claim against him.
- [05] An injunction is not a cause of action, but a remedy. The applicant must have a cause of action in law entitling him or her to substantive relief. However, there are a few exceptions such as application under Family Law Act and application to restrain the institution of proceedings in the High Court or overseas court.
- [06] For my part, I would say this is not a contempt proceeding where the court may make order against a third party if the contempt is committed by the third party. Mr Singh was the former solicitor for the defendants. He is not a party to this proceeding. The dispute is between the defendants and their former solicitor whose practicing certificate has been suspended by Independent Legal Services Commission. In my opinion, this is not a case for me to grant relief in the nature of injunction against a non-party in the absence of a substantive claim. I would accordingly strike out the *ex parte* application filed by the defendants but without costs.

M. H. Mohamed Ajmeer
18/4/19

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M. H. Mohamed Ajmeer
JUDGE



At Lautoka
18 April 2019

Solicitor:

For the applicants/defendants: M/s Krishna & Company, Barristers & Solicitors