

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

**CIVIL ACTION NO. HBC 19 OF 2016**

**BETWEEN** : **SATYA SIWAN GOUNDAR** of Navo, Nadi in Fiji, Transport  
Manager.

**PLAINTIFF**

**AND** : **ARUMUGAM** of 3 Leith Court, Manukau City, Auckland, New  
Zealand, Retired.

**FIRST DEFENDANT**

**AND** : **TAMENDRA GOUNDAR** of 3 Leith Court, Manukau City,  
Auckland, New Zealand.

**SECOND DEFENDANT**

**Appearances** : Ms M. Sukanaivalu for the applicant/plaintiff  
Mr D. Nair for the first and second respondents/defendants

**Date of Hearing** : 8 February 2019

**Date of Ruling** : 8 February 2019

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

[on reinstatement of matter back to the cause list]

[01] This is an application from the plaintiff to have the action re-instated back to the cause. The application is supported by the affidavit of Mr Iqbal Khan of Messrs Iqbal Khan & Associates. He in his affidavit deposes that his office received instructions from the plaintiff's solicitors Messrs Lal Bale Lawyers on 26 November 2018 to appear in court on their behalf and that he was engaged in a matter before Court Number 5 Master's Court on 27 November 2018 he was informed that this matter has been called on [in] Court Number 4 and that the matter was struck out due to the non-appearance of the plaintiff and/or his solicitor.

[02] The plaintiff did not file an affidavit in support of the application. He simply relies upon his solicitor's city agent's affidavit to purge his default of appearance in Court on 27 November 2018.

[03] However, this application is a misconceived one. The action was not struck out on 27 November 2018, as the plaintiff asserts. On 27 November 2018, what happened was only the plaintiff's application to enter default judgment was struck out for non-appearance of the plaintiff and his solicitor. This action is still live. I would, therefore, strike out the application for re-instatement of the action as it is a misconceived one, but without costs.

**Final Orders:**

1. Application to reinstate the action is struck out.
2. There will be no order as to costs.

*M.H. Mohamed Ajmeer*  
8/2/19

**M.H. Mohamed Ajmeer**

**JUDGE**

**At Lautoka**  
**8 February 2019**

Solicitors:

For the applicant; M/s. Lal Patel Bale Lawyers

For the respondents; M/s. Sairav Law

