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

CIVIL ACTION No. HBM 10/2020

BETWEEN		**DIRECTOR OF PUBLIC PROSECUTIONS** **APPLICANT**
AND		**KESHNI LATA** of Naikabula, Lautoka **RESPONDENT**
APPEARANCES	:	Ms M Konrote for the Applicant Ms A Chand for the Respondent
DATE OF HEARING	:	15 October 2020
DATE OF JUDGMENT	:	10 December 2020

DECISION

1. By an originating summons dated 16 March 2020 the applicant applied to the High Court at Lautoka for orders against the respondent under sections 71K – M Proceeds of Crime Act 1997 for an unexplained wealth declaration and forfeiture order in respect of a sum of $28,000 in cash found in the possession of the respondent, Ms Lata in the course of a police search on 1 March 2019 at Nadi.

2. The evidence in support of the application (from Constable Arunesh Kumar in an affidavit dated 16 March 2020) indicates that when asked where this money came from Ms Lata said that it was the proceeds of sale of a car that she had just sold, and she repeated this assertion in her affidavit in opposition to the present application. But the person to whom (as she told the police) she sold the car appears to have denied having purchased it, and police inquiries show that the only vehicles that the respondent or her husband were registered as having owned were sold in September 2019 (for $3,000), and in March 2017. It therefore seems improbable that the money found in the possession of the respondent in March 2019 came from either sale. The police suspect that the money is the proceeds of sale of drugs, but no charges have been laid against the respondent or anyone else for offences that might explain where this money came from.

3. The respondent, in defending this application, had made no serious attempt to explain the source of the funds found in her possession. Although she has repeated the assertion she made to the police, that the money is the proceeds of sale of her

car, she has not – in her affidavit opposing this application - provided any information about the type of car she sold, or when, to whom or in what circumstances the car was sold. Nor has she provided any evidence as to how and when she acquired the money to pay for a car that she was apparently able to sell for $28,000.

4. Instead, the focus of Ms Lata's opposition to the application is the legitimacy of the seizure of the money from her (without a search warrant), and an argument that the current application under the Proceeds of Crime Act is an abuse of procedure that should not be permitted by the Court. The evidence on this is not contested. In March 2019 the applicant applied to the High Court for and obtained an interim restraining order in respect of the money that had been seized from the respondent, authorising the applicant to hold the money pending the outcome of a forfeiture application. After some delay, and when the DPP had neither charged the respondent with an offence, nor applied for forfeiture, the interim orders were discharged by the Court on 16 August 2019.

5. Following that discharge the respondent, through her solicitors, applied for the release of the money seized by the applicant. The application was called for mention on 22 November 2019, and on that date the DPP, through his counsel, consented to an order by the court that Ms Lata's money was to be released to her forthwith. That order was sealed on 27 November 2019, but has not been complied with by the applicant. The DPP does not in essence disagree with this evidence of what occurred, although he does say, in the affidavit in reply by Acting Sergeant Subarmani Sami of the Fiji Police, that the consent given by DPP on 22 November was on the basis that the money would be paid to the trust account of Ms Lata's solicitor pending the making of an unexplained wealth application. A copy of the order annexed to the affidavit of the respondent confirms that the order directed payment to the trust account, but does not mention the intention to make an unexplained wealth application. Sergeant Sami also says that on 28 January 2020 the DPP applied for a stay of the order made on 22 November, and that on 17 March (the day after the present application was filed) an order was made by the court staying the execution of the November order for the release of the money pending the outcome of the application for an unexplained wealth declaration. The DPP's evidence does not offer any explanation for the delays in making the present application, or the consent to the order on 22 November, and the failure to comply with that order. It appears from the ruling of Ajmeer J of 17 March 2020 that the money remains in the possession of the Fiji Police.

6. It is the respondent's argument that the DPP deliberately flouted the court order made with his consent on 22 November for the release of the money to Ms Lata's solicitor. She further argues that had the DPP immediately obeyed the order as he should have done, there would be no money in respect of which the court could exercise its jurisdiction under the Proceeds of Crime Act. Accordingly, rather than reward the DPP's contempt of court by making the orders he seeks under the Proceeds of Crime Act, the Court should show its disapproval of this conduct by striking out this application, with costs to the respondent.

The law

7. The Proceeds of Crime Act 1997 was amended by the Proceeds of Crime Amendment Act 2004 and by the Proceeds of Crime (Amendment) Decree 2012 by the addition of sections dealing with the securing and seizure of the proceeds of crime and unexplained wealth. The sections that are relevant to this matter include:

Application for restraining order

***34**(1) Where there are reasonable grounds to suspect that any property is property in respect of which a forfeiture order may be made under sections 11 or 19, the Director of Public Prosecutions may apply to the Court for a restraining order under subsection (3) against that property.*

(2) Where there are reasonable grounds to suspect that a pecuniary penalty order may be issued under section 20 the Director of Public Prosecutions may apply to the Court for a restraining order under subsection (5) against any realisable property held by the person.

(3) An application for a restraining order maybe made ex parte and shall be in writing.

(4) An application under subsection (1) shall be accompanied by an affidavit stating-

(a) a description of the property in respect of which the restraining order is sought;

(b) the location of the property; and

(c) the grounds for the belief that the property is tainted property or terrorist property for which a forfeiture order may be made under sections 11 and 19.

(5) An application under subsection (2) shall, be accompanied by an affidavit stating-

(a) a description of the property in respect of which the restraining order is sought;

(b) the location of the property;

(c) the grounds for the belief that the person who is suspected of having committed a serious offence has obtained a benefit directly or indirectly from the commission of the offence; and

(d) where the application seeks a restraining order against property of a person other than the person who is suspected of having committed a serious offence - the grounds for the belief that the property is subject to the effective control of that person.".

PART VB – UNEXPLAINED WEALTH

Possession of unexplained wealth

71F. Any person who—

(a) maintains a standard of living above that which is commensurate with his or her present or past lawful emoluments; or

(b) is in control of pecuniary resources or property disproportionate to his or her present or past lawful emoluments,

shall, unless he or she provides a satisfactory explanation to the court as to how he or she was able to maintain such a standard of living or how such pecuniary resources or property came under his or her control, be required to pay to the Forfeited Assets Fund the amount specified in the unexplained wealth declaration under section 71K.

Application for unexplained wealth declaration

71G(1) The Director of Public Prosecutions may make an application in court for an unexplained wealth declaration against a person.

(2) An application under subsection (1) may be made in conjunction with an application under section 34 of the Act for a restraining order or at any other time.

(3) If the court makes an unexplained wealth declaration under subsection (1), the Director of Public Prosecutions may also make an application in court that the unexplained wealth is forfeitable.

Division 1 – Unexplained wealth

Unexplained wealth

71H(1) For the purposes of this Decree, a person has unexplained wealth if the value of the person's total wealth as described in subsection (2) is greater than the value of the person's lawfully acquired wealth as described in subsection (3).

(2) The value of the person's total wealth is the total value of all the items of property and all the services, advantages and benefits that together constitute the person's wealth.

(3) The value of the person's lawfully acquired wealth is that person's total wealth that was lawfully acquired.

Assessing the value of unexplained wealth

71I When assessing the respondent's wealth, the court shall consider the following—

(a) the value of any property, service, advantage or benefit is to be taken as its greater value—

(i) at the time that it was acquired; and

(ii) on the day that the application for the unexplained wealth declaration was made;

(b) the value of any property, service, advantage or benefit that was a constituent of the respondent's wealth but has been given away, used, consumed or discarded, or that is for any other reason no longer available, is taken to be an outgoing at the greater of its value—

(i) at the time that it was acquired; and

(ii) immediately before it was given away, or was used, consumed or discarded, or is unavailable; and

(c) when hearing an application under section 71G, it shall not take account of any property—

(i) that has been forfeited under this Decree or any other written law; or

(ii) service, advantage or benefit that was taken into account for the purpose of making an earlier unexplained wealth declaration against the respondent.

Division 2 – The constituents of a person's wealth

The constituents of a person's wealth

71J The following property, services, advantages and benefits constitute a person's wealth—

(a) all property that the person owns, whether the property was acquired before or after the commencement of this Decree;

(b) all property that the person effectively controls, whether the person acquired effective control of the property before or after the commencement of this Decree;

(c) all property that the person has given away at any time, whether before or after the commencement of this Decree;

(d) all other property acquired by the person at any time, whether before or after the commencement of this Decree, including consumer goods and consumer durables that have been consumed or discarded (but not including necessary food, clothing and other items reasonably necessary for ordinary daily requirements of life);

(e) all services, advantages and benefits that the person has acquired at any time, whether before or after the commencement of this Decree;

(f) all property, services, advantages and benefits acquired, at the request or direction of the person, by another person at any time, whether before or after the commencement of this Decree, including consumer goods and consumer durables that have been consumed or discarded (but not including necessary food, clothing and other items reasonably necessary for ordinary daily requirements of life); and

(g) anything of monetary value acquired by the person or another person, in Fiji or elsewhere, from the commercial exploitation of any product or any broadcast, telecast or other publication, where the commercial value of the product, broadcast, telecast or other publication depends on or is derived from the person's involvement in the commission of a serious offence, whether or not the thing was lawfully acquired and whether or not the person has been charged with or convicted of the offence.

Unexplained wealth declaration

71K(1) The court that is hearing an application under section 71G shall declare that the respondent has unexplained wealth if it is more likely than not that the respondent's total wealth is greater than his or her lawfully acquired wealth.

(2) Any property, service, advantage or benefit that is a constituent of the respondent's total wealth is presumed not to have been lawfully acquired unless the respondent establishes the contrary.

(3) Without limiting the matters to which a court may have regard for the purpose of deciding whether the respondent has unexplained wealth, the court may have regard to the amount of the respondent's lawful income and outgoings at any time or at all times.

(4) When a court makes an unexplained wealth declaration the court shall—

(a) assess the respondent's total unexplained wealth in accordance with section 71I and 71J;

(b) specify the assessed value of the unexplained wealth in the declaration; and

(c) order the respondent to pay to the Forfeited Assets Fund the amount specified in the declaration as the value of his or her unexplained wealth.

(5) When making an unexplained wealth declaration the court may make any necessary or convenient ancillary orders and declarations, including awarding costs as the court sees fit.

8. Section 34. introduced in 2004, deals with restraining orders where charges have been laid and there is a reasonable probability that a forfeiture order will be made

on conviction for an offence (s.11), or at the request of an overseas jurisdiction where a person has absconded with the proceeds of offending (s.19). Sections 71F-K were introduced some eight years later, and further increased the tools for seizure of the proceeds of crime, and deterrence of money-laundering by allowing seizure of money and assets where the owner cannot show that they have been legitimately acquired. Introducing a 2011 report to the US Department of Justice entitled **Comparative Evaluation of Unexplained Wealth Orders**, consultants Booz Allen Hamilton explained unexplained wealth orders as follows:

> *Unexplained Wealth Order (UWO) laws, a relatively recent development in confiscation and forfeiture jurisprudence, target the proceeds derived from criminal activities. Like traditional in personam and in rem forfeiture, their primary objective is to deprive criminals from acquiring or benefiting from unlawful activities. However by using UWOs the state does not have to first prove a criminal charge, as is the case with conviction based forfeiture. Likewise, the state does not have to first prove that the property in question is the instrument or proceed of a crime, as is generally the case in in rem asset forfeiture. UWO laws differ from traditional forfeiture laws in another important respect: they shift the burden of proof to the property owner who must prove a legitimate source for his wealth and the forfeiture proceeding is instituted against a person rather than against the property. These seemingly radical features of UWO laws (no proof of the property being connected to a crime and a reversed burden of proof) have, in practice, been tempered by courts, prosecutors and police, but still are a powerful, and controversial, tool for seizing assets where traditional methods likely would have been ineffective.*

And in explanation of the thinking behind the measures the report says:

> *The importance of confiscating proceeds of crime has long been recognised as an effective tool in disrupting the activities of organised crime. The underlying reason is that profit or financial gain is the main motive for criminals to engage in criminal activities. This profit is used to fund lavish lifesyles, as well as invest in future criminal activities. Indeed, removing the profit motive is considered to act both as a preventive and a deterrent to criminals by diminishing their capacity to invest in future criminal activities. The strategy of hitting criminals where it hurst most, 'their pockets', is regarded as an effective strategy by law enforcement agencies for organised crime. While organised crime has shown resilience and a high level of adaptability to other law enforcement strategies, removal or reduction of assets is considered to have an impact on their operations. Thus, confiscation of criminal proceeds is embraced by many countries through conviction and non-conviction based confiscation mechanisms.*

9. As to the significance of the applicant's failure to comply with the consent orders made on 22 November 2019 counsel for the respondent has referred me to the 1999 decision of Pathik J in **Kumari v Ram** [1999] FJHC 42, and the authorities there referred to. In particular his honour referred to and followed the decision of the English Court of Appeal in **Hadkinson v Hadkinson** [1952] 2 All ER 567, and quoted the following passages:

It is the plain and unqualified obligation of every person against, or in respect of whom, an order is made by a court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void. Lord Cottenham L.C. said in ***Chuck v. Cremer*** *(1 Coop temp Cott 342):*

> *'A party who knows of an order, whether null and void, regular or irregular, cannot be permitted to disobey it... It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null and void - whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question: that the course of a party knowing of an order which was null and irregular and who might be affected by it was plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed*

Such being the nature of this obligation, two consequences will, in general, follow from its breach. The first is that anyone who disobeys an order of the court (and I am not now considering disobedience of orders relating merely to matters of procedure) is in contempt and may be punished by committal or attachment or otherwise. The second is that no application to the court by such a person will be entertained until he has purged himself of his contempt. It is the second of these consequences which is of immediate relevance to this appeal. The rule, in its general form, cannot be open to question.

10. However in the same decision Lord Denning, while also agreeing that the applicant in that matter should not be heard by the Court until she had purged her contempt, explained the history and development of the rule, and made the following remarks:

Those cases seem to me to point the way to the modern rule. It is a strong thing for a court to refuse to hear a party to a cause and it is only to be justified by grave considerations of public policy. It is a step which a court will only take when the contempt itself impedes the course of justice and there is no other effective means of securing his compliance. In this regard I would like to refer to what Sir George Jessel MR said (46 LJCh 383) in a similar connection in ***Re Clements & Costa Rica Republic v Erlanger****:*

> *I have myself had on many occasions to consider this jurisdiction, and I have always thought that necessary though it be, it is necessary only in the sense in which extreme measures are sometimes necessary to preserve men's rights, that is, if no other pertinent remedy can be found. Probably that will be discovered after consideration to be the true measure of the exercise of the jurisdiction."*

Applying this principle, I am of opinion that the fact that a party to a cause has disobeyed an order of the court is not of itself a bar to his being heard, but if his disobedience is such that, so long as it continues, it impedes the course of justice in the cause, by making it more difficult for the court to ascertain the truth or to enforce the orders which it may make, then the court may in its discretion refuse to hear him until the impediment is removed or good reason is shown why it should not be removed.

11. In her oral submissions in opposition to the application counsel for the respondent also referred me to a decision of (then) Kumar J in **DPP v Vitukawalu** [2016] FJHC 281 (made on 14 April 2016) in which the now Acting Chief Justice commented that the court would not make a forfeiture order under the sections 19A-E Proceeds of Crime Act in respect of items that had been seized illegally. Although the learned judge unquestionably made this comment, it was obiter, since the court was not invited to make a forfeiture order in respect of the property that was the subject of

the comment (a sum of money seized in the course of a police search for drugs). In that case the DPP expressly acknowledged that the money was not included in the application for forfeiture, but did not explain why not. This may have been because the money was not itself evidence of an offence, and there was no evidence to show that it was *tainted property* in terms of the Act (see also the decision of Kumar J in **DPP v Drivationo** [2016] FJHC 280 in which the court refused an application for forfeiture of tainted property in respect of property seized without a warrant that was clearly not – because of the nature of the property in question – evidence of an offence). In the absence of further explanation of the facts in **Vitukawalu** (not included in the judgment) the case is authority only for the uncontentious principle that the court will not make a forfeiture order in respect of money seized illegally. But sections 19A-E expressly do not apply to property that is seized by the police because it may be evidence of the commission of an offence. I have not heard argument from the parties on such property, but I assume that the police are entitled to hold it until it is no longer required as evidence.

12. Also relied on by counsel for the respondent is the famous 1843 case of **Henderson v Henderson** [1843-60] All ER Rep 378 dealing with the issue of res judicatur and issue estoppel. In that case Wigram V-C set out the rule as follows (p.381/2):

> *I believe I state the rule of the court correctly, when I say, that where a given matter becomes the subject of litigation in, and of adjudication by, a court of competent jurisdiction, the court requires the parties to that litigation to bring forward their whole case, and will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of res judicata applies, except in special-case, not only to points upon which the court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation and which the parties, exercising reasonable diligence, might have brought forward at the time.*

The principle behind the rule is well understood. The rule is an expression of the public policy that while access to the courts is an essential right in any society, also important is the need to administer justice promptly, and finally, without exposing a party to endless litigation on the same issue. This policy finds its most obvious expression in allowing but limiting rights of appeal. In this case the respondent complains that the present application under the unexplained wealth provisions of the Proceeds of Crimes Act is an abuse of the process of the court in the same sense as the situation in **Henderson**, because the applicant could and should have included that claim/application as part of its original application for forfeiture, and it is too late to bring it up now. It is important to remember however, that **Henderson** was a situation where after a claim had been brought, heard and decided following trial by

a court in Newfoundland, one of the parties sought to raise in England a new matter between the same parties arising out of the same business relationship that he could have but did not raise before that court. In considering the application of the rule in **Henderson** to the present case the issue is whether the applicant could and should have included the unexplained wealth application in its application for forfeiture, and to what extent application of the public policy requiring finality in litigation, and the avoidance of double jeopardy means that the failure to do so should preclude the DPP from making that application now.

Analysis

13. I will deal first with the preliminary/technical issues raise by the respondent, concerning the abuse of process, the legitimacy of the seizure of the money, and the issue estoppel submission, before going on to deal with the unexplained wealth application on its merits.

14. Although the applicant has not explained why it consented to, and then failed to comply with the orders made on 22 November 2019 for the release of the money to the respondent, at least since the making of the order staying execution of that order it has not been in contempt of court. This is not therefore a situation akin to that in **Hadkinson** (above), where the applicant, while in flagrant breach of the orders made by the court, sought the assistance of the court in setting aside those orders. Even if it were, I do not think that the present case corresponds to the situation outlined by Denning LJ in his decision where the court should deny access by a party to the court because they are in contempt of a court order. This is not a case where the applicant's failure to comply with the order made on 22 November 2019, sanctioned as it now is by the stay of execution sought by the applicant, *impedes the course of justice in the cause, by making it more difficult for the court to ascertain the truth or to enforce the orders which it may make.* In making the order that he did on 17 March 2020 Ajmeer J accepted that allowing the money to be paid to the respondent's solicitor as the order directed would likely make the application under s.71G Proceeds of Crime Act (a declaration of unexplained wealth) pointless, even if it was successful, because by the time the court ruled on the application the money would have gone. If on the other hand, the application was refused, the respondent would then receive the money, and would suffer only the temporary inconvenience of not having access to it.

15. It will seldom be unjust to a party to decide her case on its merits, and the courts will always prefer to do so, rather than on technicalities, whether required by 'public policy' or otherwise. That is not to say that public policy is unimportant – but its

application is called for only in situations where to fail to apply it would, looked at broadly, cause more injustice than is caused to a party by refusing to hear his case, or would jeopardise the administration of justice by undermining the jurisdiction of the courts. The present case does not, in my judgment, fall within that small category of cases where the applicant's conduct is so flagrantly in contempt of court that the court should decline to hear the application. Whatever might be the explanation for the applicant's consent to and failure to comply with the order for the release of the funds, that conduct does not in any way impede the respondent's ability to defend the application and show - if she is able to do so - that the money seized from her was legitimately acquired. If she is unable to do so, public policy does not demand that she should be entitled to keep it; on the contrary, the whole point of the regime for the seizure of unexplained wealth is that if its acquisition cannot be explained, it is assumed to have been illegitimately acquired, and public policy requires that it should be forfeited precisely for that reason. If the respondent is able to demonstrate that the money was legitimately acquired, of course it should be returned to her. But crime is not victimless. Money that has been acquired by crime has been obtained at a cost to others, and at a cost to society, and if she cannot show she is entitled to it the respondent has no moral claim to the money, or right – in weighing the balance of public policy – to say that it should be applied in her favour.

16. Nor am I persuaded that this is a case where the applicant was obliged to make the present application at the same time as its application for forfeiture, and having failed to do so should now lose the opportunity to apply. As Ajmeer J observed in making his ruling to stay execution of the order for the return of the money to the respondent, section 71G(2) of the Act expressly states that an application for an unexplained wealth declaration may be made in conjunction with an application under s.34 for a restraining order or *at any other time.* It may be that immediately following the seizure of the money, and at the time it made the application for a restraining order, the police expected to be able to lay charges in which the money would have been evidence, or as a result of which they would be able to show that the money was 'tainted property' in terms of sections 19C-E of the Proceeds of Crime Act for which it could apply for a forfeiture order. If that had happened there would have been no need for an application under s.71G. The fact that the applicant was eventually unable, or chose not to lay charges does not mean that the respondent should be entitled to keep money that she cannot show was legitimately acquired. Again, this is not a situation where the respondent has been prejudiced by the delay in making the present application – if she is able to explain her acquisition of the money she will be able to keep it, and her ability to do so has not been impaired by any delay in making the application. Nor is it a situation where the

public interest in finality of litigation, or in avoiding double jeopardy, requires the respondent to be entitled to keep property that she cannot show was legitimately acquired.

17. Finally, with regard to these preliminary issues, I am not satisfied that the police seizure and retention of the money was illegal in the manner contemplated by the Court in the decisions in **Drivatonio** and **Vitukawalu**. Section 22 Illicit Drugs Control Act 2001 allows a police officer without a search warrant to search for and seize property connected to an offence under the Act if he reasonably believes that there are grounds to obtain a warrant, and that it is necessary to do so to prevent its concealment, loss or destruction. I think enough has been said about the circumstances of the search of Ms Lata's car and property to show that this was a situation covered by section 22.

18. As I have observed previously, the respondent has not sought seriously to persuade the court that the money found in her possession was legitimately acquired. As section 71K establishes, the issue must be determined on the civil standard of proof, the balance of probabilities, and that the court must assume that any property is not lawfully acquired unless the respondent establishes otherwise. Given that the property in question here is a sum of money found in the possession of the respondent, showing that it was legitimately acquired would require her to explain where she got the money from, and to disclose enough about the transaction to demonstrate that it was legitimate. Given her explanation that the money was from the sale of her car, I would have expected her to at least provide evidence as to her ownership of the car she claims to have sold, who it was sold to, when and for how much. Given the amount of money involved, I would also, in this case, expect some evidence to show how and in what circumstances she had acquired such a valuable vehicle. She might – for example – have been able to show that she initially purchased the vehicle, in which case she would have to explain how she paid for it, taking into account the evidence provided by the applicant about her modest income, and her prolonged period of unemployment. There is no evidence from her on these matters, and she has not shown – the onus being on her - that it is more likely than not that the money was obtained from the proceeds of sale of her vehicle, as she claims. This then means that the source of the money found in her possession is unexplained, and I so declare. In making this declaration I note that in the particular circumstances of this case I have not been required to undertake the calculation referred to in section 71K(4) of the Act. Because this application concerns a particular item of property, i.e. the $28,000 in cash found in the possession of the respondent, and because of the nature of the respondent's explanation for the source of that money, the application of section 71K(2) means

that that money is taken to be unexplained wealth unless the respondent establishes otherwise. There is no evidence from the respondent that would enable me to conclude that the money is in fact from the sale of her car, or – if it were – that any part of the value of the car represents legitimately acquired wealth. Had there been such evidence I would have had to make findings about whether, and if so by how much, the value of the car exceeded the amount that the respondent was able to show she had legitimately acquired.

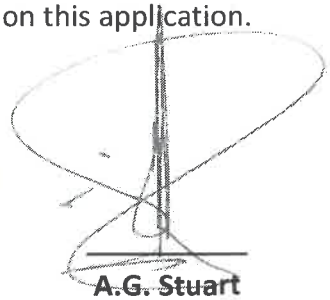
Conclusion & orders

19. Accordingly, for the reasons outlined above I make the following orders:

i. a declaration pursuant to section 71G(1) Proceeds of Crime Act 1997 that the whole of the sum of $28,000 in cash found in the possession of the respondent Keshni Lata at Nawai, Nadi on 1 March 2019, and currently held in the forfeited assets account of the applicant at Westpac Bank, is unexplained wealth.

ii. in terms of sections 71G(3) and 71K(5), the sum referred to in (i) above is forfeitable.

iii. the respondent is to pay costs of $500.00 summarily assessed to the applicant for costs on this application.



A.G. Stuart
Judge

At Lautoka this 10th day of December, 2020

SOLICITORS:
Office of the Director of Public Prosecutions, Suva
Aneshni Chand Lawyers for Respondent