

Analysis

- [3] Writ of *Fieri Facias* was issued on the 17.9.2020. Plaintiff's counsel had voluntarily withdrawn his claim and discontinued. The claim was regarding dealing of a land.
- [4] Affidavit in support Plaintiff stated that he has meritorious ground. Sale and purchase agreement had a clause for liquidated damage and accordingly court granted said sum of \$6,000 as damages, after allowing evidence to be presented.
- [5] The cost ordered was not excessive considering circumstances. So there is no prospect of any success and therefore it is doomed to fail. The fact that an appeal was filed not sufficient.
- [6] Plaintiff had not shown special circumstances to stay execution. (See *Singh v Goundar's Western Coach Builders* [2002] FJHC 304; HBA004.2001 (26 July 2002) Per Gates J.
- [7] Plaintiff must demonstrate to the court that the appeal it is on the basis of certain special circumstances that Defendant should be precluded from liquidated damages agreed between the parties. There is no such reason given. So stay of execution is denied. Cost of this application is summarily assessed at \$1,500 to be paid by Plaintiff to the Defendant within 21 days.

Final Orders

- a. Summons for stay of execution struck off.
- b. Plaintiff is ordered to pay a cost of \$1,500 to Defendant as cost assessed summarily, within 21 days.


Deepthi Amaratunga
Judge

