

**IN THE HIGH COURT OF FIJI AT SUVA**  
**COMPANIES JURISDICTION**

**Action No. HBE 70 of 2020**

**IN THE MATTER of MOHAMMED NADEEM BUILDERS LIMITED**

a limited liability company having its registered office at Lot  
193 Victoria Parade, Suva Fiji.

**AND**

**IN THE MATTER** of the Companies Act 2015.

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**Counsel** : Mr. Lal N. for the Creditor Company  
Mr. Sharma T. for the Debtor Company.

**Date of Hearing** : 13<sup>th</sup> April 2021

**Date of Judgment** : 07<sup>th</sup> October 2021

## JUDGMENT

- [1] Carpenters Fiji Private Limited (the Creditor Company) served on the Mohammed Nadeem Builders Limited (the Debtor Company) a Statutory Demand requiring the Debtor Company to pay \$30,833.80 due and owing for the items supplied on Account No. 787062-01BM.
- [2] Since the Debtor Company did not pay the amount claimed and also did not make an application to set aside the Statutory Demand, the Creditor Company, on 17<sup>th</sup> November 2020 made this application to have the Debtor Company wound up.
- [3] The learned Master of the High Court referred this matter to this court on 08<sup>th</sup> February 2021 it was mentioned for the first time on 11<sup>th</sup> March 2021.
- [4] From the record it appears that the Debtor Company has not been represented before the learned Master nor was there any representation before this court.
- [6] In this matter the Debtor Company was represented for the first time today at the hearing.
- [7] Rule 15(1) of the Companies (Winding Up) Rules 2015 provides:

On the hearing of an application under section 513 of the Act, a person may not, without leave of the court, oppose the application unless the person has, not less than 7 days before the time appointed for the hearing –

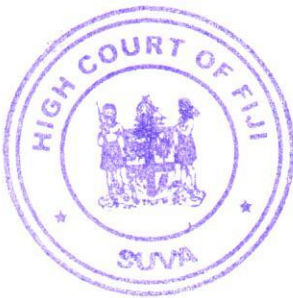
- (a) Filed an affidavit in opposition to the application; and
- (b) Served on the applicant or the applicant's solicitor –
  - (i) a notice in the form of Form D6 in Schedule 2 of the grounds on which the person opposes the application; and
  - (ii) a copy of the affidavit.

- [8] In this instance the Debtor Company has failed to comply with Rule 15 (1) above. Therefore, the debtor company has no right under the law to participate at the hearing and oppose the application for winding up.

- [9] The amount claimed by the Creditor Company exceeds the statutory minimum and the Debtor Company did not make an application to set aside the statutory demand within 21 days of its service as required by section 516(1) and (2) of the Companies Act.
- [10] Accordingly, the court makes the following orders.

**ORDERS**

1. The Debtor Company Mohammed Nadeem Builders Limited is hereby wound up.
2. The Official Receiver is appointed as the Provisional Liquidator.
3. There will not be an order for costs.



07<sup>th</sup> October 2021

Lyone Seneviratne

**JUDGE**