

IN THE HIGH COURT OF FIJI AT SUVA
CIVIL JURISDICTION

Civil Action No. HBC 151 of 2021

BETWEEN: **SOUTH PACIFIC METALS PTE LIMITED** a limited liability company having its principal office at 9 – 12 Nukuwatu Street, Wailada Industrial Subdivision, Lami in the Republic of Fiji. (Part of **PACIFIC BUILDING SOLUTIONS GROUP OF COMPANIES** or **PBS GROUP**).

FIRST PLAINTIFF

AND: **PACIFIC MARINE & CIVIL SOLUTIONS PTE LIMITED** a limited liability company having its principal office at 9 – 12 Nukuwatu Street, Wailada Industrial Subdivision, Lami in the Republic of Fiji. (Part of **PACIFIC BUILDING SOLUTIONS GROUP OF COMPANIES** or **PBS GROUP**).

SECOND PLAINTIFF

AND: **EMOSI SILIKIWAI** of Lami Foreshore, Lami in the Republic of Fiji, Occupation is unknown to the plaintiff.

DEFENDANT

Appearance : Mr. Gavin O’Driscoll for the Plaintiffs

Date of Hearing : Thursday, 14th July, 2022 at 9.15am


Date of Decision : Tuesday, 26th July, 2022 at 9.30am

DECISION

[01]. On 05th July 2022, the plaintiffs’ sought leave ex parte to apply for an order of committal against the defendant. The application was made under Order 52, Rule 2 of the High Court Rules, 1988.

- [02]. Under Order 52, Rules 2(2) the ex-parte application for leave must be accompanied by the statement setting out; (1) the name and description of the applicant; (2) the name, description and address of the person sought to be committed; and (3) the grounds on which his committal is sought.
- [03]. The application must also be supported by an affidavit verifying the facts relied on in the statement.
- [04]. The ex-parte notice of motion filed on 05.07.2022 on behalf of the plaintiffs' apart from identifying the applicants and the alleged contemnor, sets out the grounds for committal in the following terms:
- (a). *The Order of this Honorable Court dated the 15th December 2021 was served on the Defendant's Solicitor's City Agent's office, Raikanikoda Lawyers situated at Level 3, Peace Embassy Building, 8 Mitchell Street of Mcgregor Road, Suva on the 5th day of April, 2022 and duly acknowledged by the said agent is annexed hereto and marked "A".*
- (b). *The Defendant has continually interfered with the 1st Plaintiff's TAW 46791 as per Statutory declarations attached to Affidavit in Support of Robert Peter Semaan and would appear to intend to continue to do so.*
- [05]. The necessary affidavit in support verifying the facts relied on was sworn on 27/06/2022 by Robert Peter Semaan, the Director of both plaintiff company.
- [06]. Taking into consideration of the background facts and the procedural law sets out in the Order 52, Rule 2, I grant leave ex-parte to apply for an order of Committal against the defendant.




26.07.2022
Jude Nanayakkara
[Judge]