

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

COMPANIES ACTION NO. HBE 22 OF 2020

IN THE MATTER OF THE COMPANIES ACT

AND

**IN THE MATTER of WESTBUS (NADI) PTE LIMITED a
duly incorporated company having its registered
office at 12 Ram Deo Street, Martintar, Nadi, Fiji.**

BETWEEN

MUKESH KUMAR of Martintar, Nadi, Fiji, Director

PLAINTIFF

AND

AJAY KUMAR SHARMA of Martintar, Nadi, Fiji, Director

DEFENDANT

BEFORE : Hon. Mr. Justice Mohamed Mackie

APPEARANCES : Mr. V. Sharma, for the Plaintiff- O/I
Ms. Tumalevu, for the Defendant –O/I

DATE OF HEARING : 2nd August, 2022

DATE OF DECISION : 2nd August 2022.

Judgment

1. This is an Application by the Plaintiff for an Order pursuant to Section 177 of the Companies act 2015.
2. When the matter came up for hearing before me on 07th July, 2022, learned Counsel for both the parties, after having a discussion with the parties during a short adjournment, intimated to the Court that the matter could be settled by selling the shares of the Plaintiff unto the Defendant and moved for 14 days’ time to file the terms of settlement in writing. The Court allowed the application and directed the matter to be mentioned on 02nd August 2022.

3. Accordingly, written Terms of Settlement dated 25th July 2022 signed by the Plaintiff , the Defendant and their respective Solicitors was filed on 1st August 2022 and when the matter came up today the 2nd August, 2022, the learned counsel for the Plaintiff , by drawing my attention to the said Terms of Settlement, informed the court that the matter has been fully and finally settled between the parties and moved for the judgment to be entered as per the Terms of Settlement, which was confirmed by the learned Counsel for the Defendant.
4. I, having heard both the Counsel and gone through the contents of the Terms of Settlement filed of record, being satisfied that the parties have voluntarily entered into and signed the same, make the following orders as per the said Terms of Settlement.;
- 1) *That the plaintiff shall transfer all his shares in the company WESTBUS (FIJI) PTE LIMITED free from any charges or encumbrances to the Defendant Ajay Kumar Sharma Subject to the same terms and conditions on which the plaintiff held the said shares.*
 - 2) *That the Defendant shall transfer all his rights, title and interest in land comprises in Certificate of Title Number 38862 being Lot 5 on deposit plan 8665 and having an area of 1064 square meters, free from all or any mortgages charges and encumbrances to the Plaintiff.*
 - 3) *That the date of settlement of the transfer of the shares and the transfer of the land as aforesaid shall be within 90 days from the date of the Order of the Court on this terms of settlement or such other date as maybe extended by mutual agreement of the Plaintiff and the Defendant.*
 - 4) *That on the date of settlement the plaintiff shall handover to the Defendant a duly executed 'transfer of the said Certificate Title Number 38862' in registrable form and Capital Gains Tax Certificate together with any other ancillary documents required by the Register of Companies and in exchange the defendant shall hand over to the plaintiff a duly executed 'Transfer of shares' in registrable form and Capital Gains Tax Certificate. Title to the subject land and any ancillary documents required by the Register of Titles.*
 - 5) *That upon completion of settlement the Defendant shall keep the plaintiff fully indemnified and harmless from all or any claims and liabilities of Westbus (Nadi) Pte Limited, including but not limited to, all or any personal guarantees provided for and or behalf of WESTBUS (FIJI) PTE LIMITED.*
 - 6) *That the plaintiff and the defendant covenant with each other to execute and sign all required documents, do all such acts matters and things and take all necessary steps as may be required for the purpose of carrying into effect the matters set out in this Terms of Settlement.*

- 7) *That the plaintiff and the defendant agree and declare that this Action is fully settled and the parties shall have no further claims and actions against each other or WESTBUS (NADI) PTE LIMITED arising out of the matters in this action.*
- 8) *That each party shall bare their own costs of this Action and each party shall be responsible for their own costs, disbursements and incidental expenses of the transactions contemplated herein.*
5. This shall be treated as the judgment of this Court entered on the mutual agreement of both the parties, as per the above stated Terms of Settlement, and the parties shall abide by it as the Order of this Court.
6. This judgment shall be sealed and served. The matter is hereby terminated.



A.M. Mohammed Mackie
Judge

At High Court Lautoka on this 02nd August 2022.

SOLICITORS:

For the Plaintiff: Messrs. Vijay Naidu & Associates

For the Defendants: Messrs. Mishra Prakash & Associates