

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

Civil Action No. HBC 75 of 2021

**BETWEEN** : **JINA SHAW** of 246 Bridge Street, Metuchen, NJ 08840, USA.

**1<sup>st</sup> PLAINTIFF**

**CHEN SHEN** of 2-102, Building No. 7, No. 10 South Dongfeng Road,  
Chaoyang District, Beijing, China

**2<sup>nd</sup> PLAINTIFF**

**HAIQIONG GU** of Office, 21 Liang Ma Qiao Road, Chaoyang District,  
Beijing, China.

**3<sup>rd</sup> PLAINTIFF**

**HUI WANG** of 1-1-401, District 1, South West Huangcheng Town,  
Xicheng District, Beijing, China.

**4<sup>th</sup> PLAINTIFF**

**HUI WANG** of 1-1-401, District 1, South West Huangcheng Town,  
Xicheng District, Beijing, China as mother and “next friend” of **JIAXI**  
**SHI** of 1-1-401, District 1, South West Huangcheng Town, Xicheng  
District, Beijing, China.

**5<sup>th</sup> PLAINTIFF**

**FEI CHEN** of Talent Market Building, Baoan North Road, Luohu  
District, Shenzhen City, Guangdong Province, China.

**6<sup>th</sup> PLAINTIFF**

**CHAO SONG** of Room 101, Block 1, Building 1, No. 38 Heping Road,  
Lixia District, Jinan City, Shandong Province, China.

**7<sup>th</sup> PLAINTIFF**

**ZHIYU LI** of Room 362, Building 10, Lujing Xinyuan, Dongcheng  
District, Beijing, China.

**8<sup>th</sup> PLAINTIFF**

**XIAOYAN SHEN** of Room 6-3-10A, Yard 9, Beiwa Road, Haidan  
District, Beijing, China.

**9<sup>th</sup> PLAINTIFF**

**RUI WANG** of Building No. 2, Yard No.5, North Street Wulutong,  
Xicheng District, Beijing, China.

**10<sup>th</sup> PLAINTIFF**

**HONG BI** of Room 1810, Building 2, No. 220, Datun Road, Chaoyang District, Beijing, China.

**11<sup>th</sup> PLAINTIFF**

**DAN MENG** of No. 21, Building 21, Liangyu Garden, Liangzhu Cultural Village, Liangzhu Street, Yuhang District, Hangzhou, China.

**12<sup>th</sup> PLAINTIFF**

**ZHIBING ZHAO** of No. 21, Building 21, Liangyu Garden, Liangzhu Cultural Village, Liangzhu Street, Yuhang District, Hangzhou, China.

**13<sup>th</sup> PLAINTIFF**

**LEI LI** of Room 101, Unit 1, Building No. 13, Yard No. 5, Shuangqiao East Road, Chaoyang District, Beijing, China.

**14<sup>th</sup> PLAINTIFF**

**FANGYUN WANG** of Shuiluopo Town, Yangxin County, Shandong Province, China.

**15<sup>th</sup> PLAINTIFF**

**HONGTAO YU** of Room 2107, Block 1, North Wanke, Building 1, Shuizhuizi Beili, Chaoyang District, Beijing, China.

**16<sup>th</sup> PLAINTIFF**

**XIAOLI FAN** of 1-1-801, Oriental Garden, Green City Taoyuan Town. Yuhang District, Hangzhou, China.

**17<sup>th</sup> PLAINTIFF**

**HAIBO SUN** of 1-1-1, Block 3, Bishuikangcheng, No 18 Qixing Road, Qixing District, Guilin, Guangxi, China.

**18<sup>th</sup> PLAINTIFF**

**HUA TIAN** of 1-1-1, Block 3, Bishuikangcheng, No 18 Qixing Road, Qixing District, Guilin, Guangxi, China

**19<sup>th</sup> PLAINTIFF**

**DA SUN** of Songbei District, Haebin, Heilongjiang Province.

**20<sup>th</sup> PLAINTIFF**

**RAN JIANG** of Room 702, Block 1, Building 9, Xingfu Jiayuan, Guangqumen, Dongcheng District, Beijing, China.

**21<sup>st</sup> PLAINTIFF**

: **BIDAN GU** of Room 301, Unit 8, Fangcaodi Building No. 6, Fangcaodi West Street, Chaoyang District, Beijing, China.

**22<sup>nd</sup> PLAINTIFF**

: **XIAOYING GAI** of 13-1, Unit 2, Building 6, Jiangjing New World, Heping District, Shenyang, Liaoning, China.

**23<sup>rd</sup> PLAINTIFF**

**JIANG ZHU** of Room 101, Door 8, Building 146, Nongguangli Yiqu, Chaiyang District, Beijing, China.

**24<sup>th</sup> PLAINTIFF**

**JIE KANG** of Level 11, Block A, Baoye Building, Huaiyin District, Shandong Province, China.

**25<sup>th</sup> PLAINTIFF**

**TIANPU WANG** of Office, 21 Liang Ma Qiao Road, Chaoyang District, Beijing, China.

**26<sup>th</sup> PLAINTIFF**

**QUIFANG LI** of 1106, Building No. 2, Yard No. 3, West Jinxing Road, Daxing District, Beijing, China.

**27<sup>th</sup> PLAINTIFF**

**HUAMING LI** of Room 180 Qian City II, Shuyuan Road (S), Tianxin District, Changsha city, Hunan Province, China.

**28<sup>th</sup> PLAINTIFF**

**MIAN YANG** of 2-18 Zone Yin, Million Village, Dongcheng District, Beijing 100037, China.

**29<sup>th</sup> PLAINTIFF**

**RUOMEI YU** of Room 1002, Bleck E, Shanshui Plaza, Chaowai Street, Chaoyang District, Beijing, China.

**30<sup>th</sup> PLAINTIFF**

**ZICHENG WANG** of Sales office of Yuanda Meiyu, Guanshanhu District, Guiyang, Guizhou Province, China.

**31<sup>st</sup> PLAINTIFF**

**WEIJIA GUO** of 32-10-1028, Residence of Yicheng Xishan, Haidan District, Beijing, China.

**32<sup>nd</sup> PLAINTIFF**

**JIE GAO** of Room 2101, Block 3, Building 5, Section 7, Jinyu Jingheyuan, Dongba, Chaoyang District, Beijing, China.

**33<sup>rd</sup> PLAINTIFF**

**XINTONG WU** of 7-5-301, Guodian garden, Huixin West Street, Chaoyang District, Beijing.

**34<sup>th</sup> PLAINTIFF**

**WEI JUN SUN** of Room 101, No. 66, Fangchenliyang North District, 588 Fangchen Road, Zhenhai District, Ningbo, China. Living area 84# 104, Zhenhai Refining and Chemical Branch, Sinopec, Ningbo, Zhejiang, China.

**35<sup>th</sup> PLAINTIFF**

**JIANGNING YU** of Room 101, No. 66, Fangchenliyang North District, 588 Fangchen Road, Zhenhai District, Ningbo, China. Living area 84# 104, Zhenhai Refining and Chemical Branch, Sinopec, Ningbo, Zhejiang, China.

**36<sup>th</sup> PLAINTIFF**

**XIAOJIAO MA** of Room 3102, Tangning North First Street, Liwan District, Guangdong Province, China.

**37<sup>th</sup> PLAINTIFF**

**JIELEI DU** of Room 1905, Unit 17, Building 6, Ronganxiangyuan, No. 1155, Yinzhou District, Ningbo, Zhejiang Province, China.

**38<sup>th</sup> PLAINTIFF**

**XIAOFANG CHENG** Building New Media, People's Daily, No. 2 West Jintai Road, Chaoyang District, Beijing, China.

**39<sup>th</sup> PLAINTIFF**

**JINGMING YANG** Building New Media, People's Daily, No. 2 West Jintai Road, Chaoyang District, Beijing, China

**40<sup>th</sup> PLAINTIFF**

: **JINXI JIANG** as mother and next friend of **JUNREN JIANG** of Room 301, Building 63, Huayan Beili, Chaoyang District, Beijing, China.

**41<sup>st</sup> PLAINTIFF**

: **JINXI JIANG** of Room 301, Building 63, Huayan Beili, Chaoyang District, Beijing, China.

**42<sup>nd</sup> PLAINTIFF**

**ZHEN LIU** of Room 301, Building 63, Huayan Beili, Chaoyang District, Beijing, China.

**43<sup>rd</sup> PLAINTIFF**

**YUZHEN ZHANG** of Room 19C, Dingheng Center, Jia No. 45, North Fengtai Road, Fengtai District, Beijing, China.

**44<sup>th</sup> PLAINTIFF**

**GANG SUN** of Room 209, No. 2, Lane 2899, North Zhangyang Road, Pudong New Area, Shanghai, China.

**45<sup>th</sup> PLAINTIFF**

**TINGTING SONG** of Room 1301, Building 2, Lane 69, Shuangding Road, Jiading District, Shanghai, China.

**46<sup>th</sup> PLAINTIFF**

**XUANYE DAI** of No. 77, Lane 1180, Rushui Road, Jiading District, Shanghai, China.

**47<sup>th</sup> PLAINTIFF**

**MENGQI PAN** of Room 20-2-2403, Poly Chuntianli, Daxing District, Beijing, China.

**48<sup>th</sup> PLAINTIFF**

**LIJIE WANG** of 17A, Block D, Huating, Beijing, China

**49<sup>th</sup> PLAINTIFF**

**YINGYING BI** of Room 101, 8828 Lane No. 91, Chuanzhou Road, Chuangsha Town, Pudong New District, Shanghai, China.

**50<sup>th</sup> PLAINTIFF**

**XUHUA LIU** of No. 711, Unit 7, Building 14, Madiannan Village, Xicheng District, Beijing, China.

**51<sup>st</sup> PLAINTIFF**

**AIDAN ZHANG** of No. 14 South Street, Chaoyang Gate, Chaoyang District, Beijing, China.

**52<sup>nd</sup> PLAINTIFF**

**XU LINA** of Room 902, Block 4, Building 88, Shiji Xingcheng, Tongzhou District, Beijing, China. As mother and “next friend” of **KUAN LIU** of Room 902, Block 4, Building 88, Shiji Xingcheng, Tongzhou District, Beijing, China.

**53<sup>rd</sup> PLAINTIFF**

**XU LINA** of Room 902, Block 4, Building 88, Shiji Xingcheng, Tongzhou District, Beijing, China. As mother and “next friend” of **CHANG LIU** of Room 902, Block 4, Building 88, Shiji Xingcheng, Tongzhou District, Beijing, China.

**54<sup>th</sup> PLAINTIFF**

**SIQI ZHAI** of 11F, North Building, Fenghui Times Building, Fenghuiyuan, Xicheng District, Beijing, China.

**55<sup>th</sup> PLAINTIFF**

**BEINI GUAN** of A-301, No. 1 Street, North Tangning Liwan District, Gaungzhou, Guangdong Province.

**56<sup>th</sup> PLAINTIFF**

**XIN ZHAO** of B1407, Building 1, Guangwai Gaunghua Xuan Community, Xicheng District, Beijing, China.

**57<sup>th</sup> PLAINTIFF**

**YUQI WU** of accounting firm Daxin, 15<sup>th</sup> Floor, Xueyuan Inti Plaza, No. 1, Zhichun Road, Haidian District, Beijing, China.

**58<sup>th</sup> PLAINTIFF**

**HONGYAN JI** of Room 412, South Building 7, No. 8 North Huayuan Road, Haidian District, Beijing, China.

**59<sup>th</sup> PLAINTIFF**

**A N D** : **FREESOUL REAL ESTATE DEVELOPMENT (FIJI) PTE LIMITED** a limited liability company having its registered office at Suva in Fiji  
**1<sup>st</sup> DEFENDANT**

**A N D** : **FREESOUL INVESTMENT AND MANAGEMENT (FIJI) PTE LIMITED** a limited liability company having its registered office at Suva in Fiji

**2<sup>nd</sup> DEFENDANT**

**A N D** : **BEN MA** of 7 Thomson Street, Suva  
**3<sup>rd</sup> DEFENDANT**

**A N D** : **DICK PENG** of 7 Thomson Street, Suva

4<sup>th</sup> DEFENDANT

**A N D** : **DICKSON INVESTMENT COMPANY LIMITED** a limited liability  
company having its registered office at Suva in Fiji

5<sup>th</sup> DEFENDANT

Counsel: Mr. K. Jamndas for the Plaintiffs  
Mr. A. Nathan for the Defendants

Date of Judgment: 27.11.2025

### Judgment (security for cost)

#### **INTRODUCTION**

- [1] The 1st, 2nd, 4th and 5th Defendants apply for an order that the Plaintiffs provide security for costs pursuant to Order 23 rule 1(a) of the High Court Rules 1988.
- [2] The Plaintiffs oppose the application. The Defendants filed no affidavit in reply.
- [3] Order 23 rule 1 of High Court Rules 1988 states,

Security for costs of action, etc. (O.23, r.1)

1.–(1) Where, on the application of a defendant to an action or other proceeding in the High Court, it appears to the Court–

(a) that the plaintiff is ordinarily resident out of the jurisdiction

(b) that the plaintiff (not being a plaintiff who is suing in a representative capacity) is a nominal plaintiff who is suing for the benefit of some other person and that there is reason to believe that he [or she] will be unable to pay the costs of the defendant if ordered to do so;

(c) subject to paragraph (2), that the plaintiff's address is not stated in the writ or other originating process or is incorrectly stated therein[;or

(d) that the plaintiff has changed his address during the course of the proceedings with a view to evading the consequences of the litigation, then if, **having regard to all the circumstances of the**

**case, the Court thinks it just to do so**, it may order the plaintiff to give such security for the defendant's costs of the action or other proceeding as it thinks just.

(2) The court shall not require a plaintiff to give security by reason only of paragraph (1)(c) if he satisfies the Court that the failure to state his address or the mis-statement thereof was made innocently and without intention of deceiving.

(3) The references in the foregoing paragraphs to a plaintiff and a defendant shall be construed as references to the person (howsoever described on the record) who is in the position of plaintiff or defendant, as the case may be, in the proceeding in question, including a proceeding on a counterclaim" (emphasis added)

- [4] The discretion must be exercised having regard to "all the circumstances" which is analogous to interlocutory applications such as injunctions.
- [5] It is difficult to list all considerations. Relevant considerations include: prospects of success, the risk of stifling a legitimate claim, delay, quantum sought, and whether the application is oppressive. This required 'holistic' approach and factors needs to be properly weighted.
- [6] Broad discretion is granted to court so that in considering overall justice of application for security for cost can be refused.

## **Analysis**

- [7] It is not disputed that the Plaintiffs are resident outside Fiji. This allows the Court to consider security but does not create a presumption in favour of it. It is the prerequisite for an application for security for cost.
- [8] The preliminary issue regarding affidavit of Plaintiffs in my mind is not a reason to deny justice in this application.
- [9] The Defendants filed no reply to the affidavit in opposition. This is relevant considering the statement of defence is bare denial without explanation and also delay in the filing of statement of defence.
- [10] According to statements of claim and affidavits filed by Plaintiffs,
  - a) the Plaintiffs allege significant financial loss arising from the Defendants' conduct;

- b) the Plaintiffs assert that the Defendants hold substantial funds previously received from them and that they claim equitable interests in property of the 1st and 2nd Defendants;
- c) This application is said to be intended to obstruct and delay the Plaintiffs' claims;
- d) the quantum sought is excessive and unjustified;
- e) the delay in bringing the application is substantial.

- [11] In my mind the main consideration is the prospect of success. The pleadings disclose several causes of action including breach of contract, fraudulent misrepresentation, deceit and conspiracy.
- [12] No evidence challenges the bona fides of the claim. Even in the statement of defence are bare denials without explanation.
- [13] At this interlocutory stage the Court does not undertake a detailed merits inquiry. the claim appears bona fide and is neither frivolous nor obviously hopeless.
- [14] The uncontested affidavit describes substantial financial outlay by the Plaintiffs in connection with the alleged transactions. Defendants chose not to reply to these allegations in the affidavit in opposition.
- [15] Plaintiff state that requiring security in the amount sought would impede their ability to proceed.
- [16] An order in the amount sought or any security for cost would likely operate oppressively considering the conduct of the Defendants in this action as well as in this summons.
- [17] This application was not sought initially by Defendants and even they did not file statement of defence.
- [18] Delay itself may not be a ground to refuse security for cost but statement of defence as well as the conduct of Defendant in this action shows bona fides of this application.
- [19] The Defendants seek security of \$250,000 and this also shows clearly the intention of Defendant was not genuine and was attempting to abuse the process through security for cost. There were no bill of costs, calculation, or evidentiary basis to make such an excessive security only because there were numerous Plaintiffs.

[20] On the material before the Court, the figure sought cannot be justified.

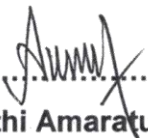
### **CONCLUSION**

[21] Having regard to all the circumstances including the absence of reply evidence, the risk of stifling the claims, the delay, and the lack of justification for the quantum sought, it is not satisfied that it is just to order security for costs.

### **FINAL ORDERS:**

- a) The Defendants' application for security for costs is **dismissed**.
- b) Costs of the application are awarded to the Plaintiffs, assessed summarily at \$2,000 to be paid by first second fourth and fifty Defendants jointly and or severally within 21 days.



  
.....  
**Deepthi Amaratunga**  
**Judge**

**At Suva** this 27<sup>th</sup> day of November, 2025.

### **Solicitors**

Parshotam Lawyers

Janend Sharma Lawyers

Fiji National University