

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

Civil Action No. HBC 275 of 2025

BETWEEN : **MOHAMMED SANEEM** of 19 Raisara Street, former
Supervisor of Elections.

PLAINTIFF

AND : **THE PRESIDENT OF THE REPUBLIC OF FIJI**

1st DEFENDANT

AND : **THE PRIME MINISTER** as the Chairperson of the
Constitutional Offices Commission of Fiji

2nd DEFENDANT

AND : **THE CONSTITUTIONAL OFFICES COMMISSION**

3rd DEFENDANT

AND : **THE SOLICITOR-GENERAL**

4th DEFENDANT

AND : **THE ATTORNEY-GENERAL**

5th DEFENDANT

Before : Banuve,J

Counsels : Plaintiff in Person
Attorney-General's Chambers for the Defendants

Date of Submissions: 5 March 2026

Date of Ruling : 6 March 2026

RULING

A. The Summons

1. An 'Inter-Parte Summons to Vacate the Hearing Date' was filed on 20 February 2026 seeking the following relief;
 1. *THAT the hearing date in the action be vacated and another hearing date be assigned.*
 2. *ANY other or further relief as this Honorable Court may deem fit.*
2. The Supporting Affidavit is deposed by a Jese Drova, a Senior Legal Officer in the Solicitor-General's Chambers wherein he outlines the basis of the application for adjournment;
 - (i) The Plaintiff's claim is for alleged unpaid entitlements arising from a purported variation to the Plaintiff's remuneration, which is said to be governed by a Deed of Variation, which is a central issue in the determination of the Plaintiff's claim before this Court.
 - (ii) In separate proceedings before the Chief Justice involving the former Attorney-General and the Plaintiff, the delivery of the judgment has been adjourned to 30 March 2026. ('related proceedings')

- (iii) A copy of the 'Information Sheet' dated 29 September 2025 in relation to the charges preferred in the related proceedings was attached as Annexure 'JD 2' to the supporting affidavit, outlining that in '*The State v Aiyaz Sayed Khaiyum and Mohammed Saneem*'-Crim Action-HAC 165/2025, the Plaintiff was charged for the offence of 'Receiving a Corrupt Benefit', contrary to section 137 of the Crimes Act 2009, which is particularized *that as the Supervisor of Elections ...without lawful authority ...obtained a benefit ...the approval and payment of deductible tax reliefpursuant to a second Deed of Variation dated 30 June 2022 without the endorsement of His Excellency nor the Constitutional Offices Commission ...as prescribed under section 136 of the Constitution.*

- (iv) The determination of the Related Proceedings to be delivered on 30 March 2026 will address the lawfulness, validity and constitutional propriety of the Deed of Variation relied on by the Plaintiff in the current proceedings, and the outcome of the judgment on the validity of the Deed of Variation will have a bearing on the issues to be determined in this matter.

B. The Position of the Plaintiff

- 3. In an Affidavit in Response, dated 3 March 2026, the Plaintiff opposes the adjournment being granted on the basis that the deponent of the supporting affidavit is not a party to the proceedings, and is neither authorized by any of the Defendants to depose the affidavit.

- 4. In addition, the Plaintiff alleges that;
 - (i) The charges in the criminal matter do not affect the central issue in this case;
 - (ii) The deponent of the supporting affidavit fails to acknowledge that there are different burdens of proof on civil and criminal proceedings and the Constitution allows him to recover the balance of the monies owed to him;
 - (iii) The civil jurisdiction of the High Court cannot be asked to vacate the hearing date simply because the Defendants feel that the Criminal Division of the High Court has a matter concerning the Plaintiff. The matter in the Criminal

Division is for ruling and there will not be any prejudice to the evidence before the Court.

C. Analysis

5. The Court is grateful to the parties for the written submissions filed on 4 and 5 March 2026.
6. The Plaintiff challenges the standing of the deponent of the supporting affidavit on the basis of his not being a party to the proceeding, *nor* authorized to depose the affidavit by any of the Defendants. This challenge is not sustainable for the following reasons;
 - (i) The deponent is deposing the supporting affidavit as a representative of the Solicitor-General, who pursuant to section 116(2)(d) of the Constitution, represents the State in any legal proceedings to which the State is a party. The Court understands that the Solicitor-General represents all the Defendants pursuant to this authority.
 - (ii) The deponent, as a subordinate officer of the Solicitor-General, is pursuant to section 116(14) of the Constitution, exercising the powers of the Solicitor-General outlined in section 116(2)(d). Alternately, the deponent is acting under a standing delegation from the Solicitor-General recognized at common law -*Carltona v Commissioner of Works* [1943] 2 All ER 560 (CA)
7. The central issue which the Court has to address however is whether it ought, in the circumstance, exercise its discretion to grant the adjournment sought by the Defendants.
8. The Plaintiffs rely on *Kumar v Minister for Works, Transport and Public Utilities* [2014] FJHC 20; HBC 141.2013 (31 January 2014), for the proposition that the Court has such a discretion in civil proceedings and a person could not seek an order for stay of civil proceedings, *as of right*, merely on the ground that he is charged in a contemporaneous criminal proceeding.

9. The burden is on the Defendant in the civil action to satisfy the court that it is just and convenient to stay proceedings and interfere with the Plaintiff's right to proceed with his claim.¹
10. After a consideration of relevant factors the Court is satisfied that it is just and convenient to stay this proceeding pending the determination of Criminal Action -HAC 165/2025, for which a ruling will be delivered on 30 March 2026, for the following reasons;
- (i) In *Kumar* [2014] FJHC 20; HBC 141.2013, the Plaintiff had not been charged with an offence, although criminal investigation were ongoing. The Court found it pertinent that there was no evidence before it that FICAC was considering a charge against the Plaintiff and therefore refused stay on the basis that it was not satisfied that there was a real danger of injustice occurring.
- (ii) The Plaintiff, in this proceeding, has been charged with an offence under section 137 of the *Crimes Act 2009*, in contemporaneous criminal proceedings (HAC 165/2025), with a trial concluded, and a decision awaited on 30 March 2026. It appears from the material deposed in the supporting affidavit that the validity of the Deed of Variation is a central issue in the criminal proceeding, and also in *this* proceeding in 'that the *Plaintiff's claim for unpaid entitlements arises from a variation of the Plaintiff's remuneration which is said to be governed by a Deed of Variation*. The findings in the criminal proceeding will have an impact in this proceeding . Should the criminal charges laid in Criminal Action HAC 165/2025 be dismissed, for example, it may facilitate proof of civil liability in this proceeding.
- (iii) The determination of this issue of in the criminal proceeding will be relevant to the determination of the issue underlined in sub-paragraph (ii) in this Court.

¹ *Jefferson Ltd v Bhetcha* (1970) 2 All ER 1108, per Megaw, LJ

(iv) The burden is on the Defendant in the civil proceeding to satisfy the court that it is just and convenient to stay proceedings and the factors to be considered in stay proceedings were outlined in *Jefferson Ltd v Bhetcha* (1970) 2 All ER 1108;

(a) *Whether there is a real danger of the causing of injustice in criminal proceedings;*

(b) *It would be wrong and undesirable to attempt define in the abstract what are the relevant factors. By way of example a relevant factor telling in favour of a defendant might well be the fact that a civil action, or some step in it, would be likely to obtain such publicity as might sensibly expected to reach and to influence persons who would or might be jurors in criminal proceedings*

(c) *It may be that, if the criminal proceeding were likely to be heard in a very short time it would be fair and sensible to postpone the hearing of the civil action....*

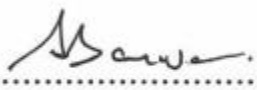
(v) The Court notes that the factors to be taken into account are not closed and it finds a synthesis of the factors identified in (iv)(b) and (c) relevant, and applicable to a situation where the contemporaneous criminal proceeding has been heard, and a ruling awaited. To proceed with a hearing on 6 March 2026 in the civil proceeding on the Plaintiff's entitlement for reimbursement, in the circumstance would not seem to be a just use of judicial resources, given the criminal proceeding which deals directly with the validity of the Deed has been completed and a ruling awaited on 30 March 2026. This finding will be relevant to the civil proceeding. There is also a real potential that a step taken, (or an earlier ruling delivered) in the civil proceeding, may influence the ruling in the criminal proceeding as highlighted in *Jefferson*.

The Court therefore finds that there is sufficient basis on the grounds outlined in this Ruling to exercise its discretion to grant the adjournment sought.

ORDERS:

1. Relief sought in the Inter Parte Summons to Vacate the Hearing Date filed on 20 February 2026 granted.
2. Parties to bear their own costs
3. Matter to be re-listed for mention (to fix a hearing date) on a date to be agreed.




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Savenaca Banuve
Judge

Dated at **Suva** this 6th day of **March, 2026.**