

IN THE HIGH COURT OF FIJI

AT SUVA

CIVIL JURISDICTION

Civil Action No. HBC 171 of 2015

BETWEEN : **RENEE DEVINA SINA LAL** of 73 Navurevure Road, Suva, Fiji, Lawyer.
APPLICANT
(ORIGINAL DEFENDANT)

AND : **DILIP JAMNADAS** as Principal and as Trustee of Jamnadas and Associates Trust Account, a legal practitioner of the law firm of Jamnadas and Associates, having its registered office situated at 6th Floor, FNPF Place, Victoria Parade, Suva, Fiji.
RESPONDENT
(ORIGINAL PLAINTIFF)

BEFORE : **Hon. Justice Vishwa Datt Sharma**

COUNSEL: **Mr. Bale A** for the Applicant

Ms. Fong M. for the Respondent

DATE OF JUDGMENT: 26th February, 2026

JUDGMENT

[Stay of Execution of the Judgment and order pending final Determination of Civil Appeal

No. ABU 72 of 2024]

Introduction

- 1) The Applicant in her Summons of 9th May 2025 seeks the following orders and relies on the affidavit deposed on 7th May 2025.
 - (i) That there be a **Stay of Execution of the Judgment** of the High Court of Judge Vishwa Datt Sharma delivered on 7th August 2024 pending the Final Determination of the Applicant's Appeal to the Court of Appeal via Civil Appeal No. ABU 72 of 2024,
 - (ii) That there be a **Stay of Execution** of the order entered against the Defendant on 27th May 2022 pending the Final Determination of the Appeal of the Court of Appeal Civil Appeal No. ABU 72 of 2024.
 - (iii) Any other orders Court deems just and necessary, and
 - (iv) Costs of this Action.

Upon the following grounds:

- (a) The Applicant has meritorious grounds of Appeal that is pending determination at the Court of Appeal.
 - (b) The Applicant's Appeal to the Court of Appeal will be nugatory if a Stay is not granted.
 - (c) The Respondent will not suffer any prejudice in the event that the Judgment delivered on 7 August 2024 is stayed especially considering that the judgment sum granted in the Default Judgment granted on 27 May 2022 is considered trust monies which the Respondent is not personally entitled to.
 - (d) The Applicant has diligently prosecuted her Appeal at the Court of Appeal.
 - (e) The Applicant has paid the Security for Costs in the sum of \$2,500.00 for the purposes of the Appeal at the Court of Appeal.
 - (f) The balance of convenience is in favor of the grant of an interim stay pending the determination of the Applicant's Appeal to preserve the status quo given that the Applicant would suffer irreparable harm if the Judgment delivered on 7 August 2024 and the Default Judgment Orders granted on 27 May 2022 would proceed.
- 2) The Application is made pursuant to **Order 45 Rule 10** of the **High Court Rules 1988 Rule 26(2)** of the **Court of Appeal Rules 1949** an Inherent Jurisdiction of this Honorable Court.

- 3) The Respondent did not file/serve any opposition. However, orally opposed the Applicant's Summons.
- 4) Written submissions were furnished to the Court by both parties to the proceedings.

Chronology

- 5) It is important to set out the summary of the chronology of this case, since the Substantive Action was filed and commenced on 1st May 2015, some 10 - 15 years has lapsed since the time of the commencement of this proceedings.
- 6) The Applicant [Original Defendant] was served with the Respondent's [Original Plaintiff] Writ of Summons coupled with the Statement of Claim, subsequently amended and prove of service by an affidavit of service is filed herein.
- 7) The Applicant failed to file/serve any Acknowledgement and Statement of Defence, instead on 4th April 2019 filed an **Application to Strike Out** the Respondents Amended Claim.
- 8) On 27th April 2022, the Acting Master delivered the Ruling refusing to strike out, the Respondents Amended Claim with \$850 costs against the Applicant to be paid by 11th May 2022.
- 9) On 19th May 2022 the Respondent filed an **Ex-Parte Notice of Motion** with a supporting affidavit seeking for **Default Judgment against the Applicant**.
- 10) On 24th May 2022, the Applicant filed an application for Enlargement of Time of orders dated 27th April 2022 and for Extension of Time to file a Statement of Defence. According to the Applicant, this application was never issued by the Civil Court Registry, however, Acting Master wrote to the Senior Court Officer stating that **'it will be short service if listed on 26th May 2022, hold on for directives and why the application now brought up on 24th May 2022?'**
- 11) According to a file search by the Applicant, there was no records of any application for Enlargement of orders dated 27th April 2022 and Leave to file the Statement of Defence being issued and/or listed before Court.
- 12) The Respondent's Ex-Parte Application for Default Judgment was set for hearing on 26th May 2022, however, further adjourned to 27th May 2022 to allow Respondent to provide case authority of **Skerlec v Tompkins** to assist Master in determining whether a **default judgment** application can be made on an Ex-Parte basis.
- 13) On 27th May 2022, Ex-Parte application seeking Default Judgment was accordingly granted on **Liquidated Claim** only. The order for **Default Judgment** was sealed subsequently on 6th June 2022.

- 14) The Respondent thereafter executed the Default Judgment by Bankruptcy Proceedings Case No. 13 of 2023 in the Suva Magistrates Court.
- 15) On 3rd February 2023, the Applicant made an application by Summons an Affidavit in Support and sought for **Setting Aside of orders granted** on 27th May 2022 and sealed on 6th June 2022.
- 16) On 5th September 2023, the Applicant filed a fresh application seeking for **Stay and Setting Aside** of default judgment. However, Applicant's application filed on 3rd February 2023 was withdrawn by consent.
- 17) The Applicant's application seeking for '**Stay and Setting Aside** of Default Judgment was scheduled for hearing on 11th July 2024.
- 18) On 7th August 2025, the High Court delivered its Ruling on Applicants '**Summons seeking for Stay and Setting Aside Default Judgment** entered on 27th April 2022.
- 19) On 15th August 2025, the Applicant filed a **Notice of Appeal and Grounds of Appeal** against the High Court Judgment to the Court of Appeal.
- 20) Subsequently, on 16th August 2025, the Applicant filed an application for '**Stay Pending Appeal**' at Court of Appeal.
- 21) On 11th April 2025, Court of Appeal dismissed the application for '**Stay Pending Appeal**' on the basis that the Applicant was required as per the Rules to first file the '**Stay application**' at the Court of first instance.
- 22) Hence, on 9th May 2025, the Applicant filed a '**Stay of Execution of Judgment and Stay of Execution of the order Applications**' at the High Court. No opposing affidavit(s) by the Respondent was filed.

Analysis and Determination

- 23) On the outset, it is important to draw my attention and make reference to an earlier Interlocutory Summons of the Applicant filed in the High Court on 5th September 2023 seeking for:
 - (i) Stay of Execution of the orders entered against the Applicant/Defendant, on 27th May 2022; and
 - (ii) Order granted on 27th May 2022 so entered against the Defendant be Set Aside and the Defendant be given unconditional leave to file the Statement of Defence out of time,
 - (iii) Costs, and

(iv) any other orders.

24) The orders sought for were not granted and the Applicant Appealed the Decision of 7th August 2024 to the Court of Appeal.

25) The Court of Appeal then delivered its Decision on 26th March 2025 stating:

"That this Court at this stage has no jurisdiction to hear the Appellant's application for Stay of Execution of Judgment, for she had not filed an application seeking Stay of Execution of Judgment in the High Court in the first instance and not met with a refusal by the High Court. His current application must therefore should stand dismissed."

The Court ordered that:

- (a) "Summons/Application for Stay of Judgment dated 7th August 2024 pending Appeal is dismissed
- (b) Costs lie where they fall."

26) The Applicant after delivery of the above Court of Appeal Ruling, subsequently on 9th May 2025 filed the Summons and sought for:

- (i) Stay of Execution of the High Court Judgment of 7th August 2024 pending Final Determination of the Court of Appeal Civil Appeal No. ABU 72 of 2024, and
- (ii) Stay of Execution of the order against the Defendant of 27th May 2022 pending the Final Determination of the Court of Appeal Civil Appeal No. ABU 72 of 2024.

27) Orders of 27th May 2022

- (i) That leave is granted to enter the default Judgment in the sum of \$27,170.04 being the sum misappropriated from Jamnadas and Associate Trust Account.
- (ii) That the Defendant indemnifies the Plaintiff from any and all claims by the clients as the Plaintiff did not have any involvement with the transaction described in the Plaintiff's Amended Writ as same was done solely by the Defendant with the assistance of the Defendant's sister, Raina Lal for the Defendant's personal gains and benefit.
- (iii) That the interest is awarded at the rate of 4% of the Judgment sum of \$27,170.04 from 01st May 2025 till 27th May 2025.

- (iv) That the Plaintiff is also entitled to post Judgment interest at 4% from the date until Judgment is satisfied.

28) Orders of 7th August 2024:

- (i) The Defendant's summons filed on 5th September 2023 seeking for Stay and Setting Aside order of 27th May 2022 is dismissed in its entirety.
- (ii) The order for default Judgment granted against the Defendant on 27th May 2022 stands and is effective.
- (iii) Parties to bear their own costs at the discretion of this Court.
- (iv) File closed.

The Law

29) **Order 45 Rule 10 [O.45, r.10]** deals with matters occurring after judgment: **Stay of Execution**

"10. without prejudice to Order 47 rule 1, a party against whom judgment has been given or an order made may apply to the Court for a Stay of Execution of this Judgment or order or other relief, and on such terms, as it thinks just."

- 30) On 15th August 2024, the Applicant, Lal Patel Bale Lawyers filed a Notice of Appeal and Grounds of Appeal against the Judgment of the High Court delivered on 7th August 2024 [HBC 171.2015] where inter alia the Applicant's Summons seeking for Stay in Setting Aside default Judgment of 27th May 2022 was dismissed.
- 31) Subsequently, on 15th September 2024, the Respondent, Dilip Jamnadas had filed **Bankruptcy Proceedings** following the High Court Judgment of 7th August 2024 against the Applicant in the Magistrate's Court Bankruptcy No. 13 of 2024.
- 32) In the Bankruptcy Proceedings, the Applicant sought for a **Stay of Bankruptcy Proceedings** in the Magistrate's Court but this application was refused on 18th September 2024 by the Presiding Magistrate. The Applicant subsequently appealed the Presiding Magistrate's Decision on 18th October 2024 to the High Court.
- 33) The Bankruptcy Proceedings No. 13 of 2024 is still pending in the Magistrate's Court and has not been proceeded with any further as the Magistrate's Court was awaiting the Court of Appeal Decision on the Applicant's **Stay Application**.
- 34) However, the Court of Appeal had delivered its decision on the '**stay application**' on 11th April 2025 dismissing the summons for stay of Judgment of 7th August 2024 pending appeal.

- 35) Upon enquiries with the officer in charge of the Magistrate's Court Civil, the Senior Court Officer Civil was informed that the file has now been remitted to the Judge of the High Court to allow Honorable Judge to hear and determine the impending Appeal.

On 'Stay of Bankruptcy Proceedings.'

- 36) I have made reference and adopted the reasons given in my Judgment of 7th August 2024 that has prompted me to determine the current orders sought for stay as appears hereunder.
- 37) I have borne in mind:
- that the Appeal against the Magistrate's Court Decision on refusing the '**Stay of Bankruptcy Proceedings**' is impending hearing and determination and that the issue has Nexus with the Learned Master's order of '**Default Judgment**' of 27th May 2022 and the High Court Order of 7th August 2024,
 - that the Applicant Lal Patel Bale Lawyers filed notice and grounds of Appeal impending in Court of Appeal on 15th August 2024 against the Judgment of the High Court delivered on 7th August 2024 inter alia the Applicants Summons seeking for Stay and Setting Aside Default Judgment of 27th May 2022 was dismissed.
- 38) It is only appropriate for me to disallow and dismiss the Applicants Summons of 9th May 2025 for '**Stay of Execution of Judgment of the High Court of 7th August 2024 and Stay of Execution of the order of 27th May 2022** pending appeal in its entirety.

Costs

- 39) The Applicant's Summons of 9th May 2025 seeking for two (2) reliefs proceeded to full hearing with filing of affidavits, oral and written submissions.
- 40) It is only appropriate just and fair that I grant a summarily assessed costs of \$2,000 against the Applicant Renee Devina Lal to be paid to the Respondent Dilip Jamnadas within 14 days timeframe.

Orders

- (i) The Applicant's Summons of 9th May 2025 seeking orders for Stay of Execution of the Judgment of 7th August 2024 pending final determination of the Applicant's Appeal No. ABU 12/2024 and Stay of Execution of the order against the Defendant of 27th May 2022 pending final determination of the Appeal is not acceded to and is in its entirety dismissed.

- (ii) There is an order for Summarily assessed costs of \$2,000 against the Applicant to be paid to the Respondent within 14 days timeframe.

Dated at Suva this 26th day of February ,2026.




VISHWA DATT SHARMA
PUISNE JUDGE

cc: Lal Patel Bale Lawyers, Suva
Jamnadas & Associates, Suva