

**IN THE HIGH COURT OF THE COOK ISLANDS  
HELD AT RAROTONGA  
(CIVIL DIVISION)**

**PLAINT NO. 31/10**

**BETWEEN**                      **SETAREKI RAIYAWA** formerly of Nikao,  
Rarotonga, now residing in Deuva, Fiji  
**Plaintiff**

**AND**                              **HON. NANDI GLASSIE** Minister of  
Health, Avarua, Rarotonga  
**First Defendant**

**AND**                              **HON. HENRY PUNA** Attorney-General,  
Avarua, Rarotonga  
**Second Defendant**

**Date:**                              8 May 2013

**Counsel:**                        Mrs Browne for the Plaintiff  
Ms Henry for the Defendants

**Ruling:**                            8 May 2013

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**RULING OF THE HONOURABLE JUSTICE DAME JUDITH POTTER**

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[FTR 09:09:06]

[1] By application dated 11 April 2011, the First and Second Defendants seek to have this proceeding dismissed for want of prosecution. A careful chronology of events included in the Defendant's submissions, shows that this proceeding was commenced on the 22<sup>nd</sup> December 2010 but there has effectively been no action in the matter since the 20<sup>th</sup> February 2012.

[2] By judgment dated 7 April 2011, Hugh Williams J ordered the Plaintiff to pay security for costs in the sum of \$3,000 and stayed the proceeding until payment was made. Payment has not been made despite enquiry by the Defendants, most recently on the 24<sup>th</sup> July 2012 when Ms Rokoika for the Plaintiff advised that the Plaintiff was near impecunious and was trying to collect the money to pay for the security for costs. Ms Browne appearing this morning on instructions for the Plaintiff advises that no further instructions have been received and there is no indication that the Plaintiff is in a position to pay the security for costs.

[3] The Defendants submit that the significant delay in this matter is prejudicial to them. I note that the Plaintiff resides in Fiji and there is no confirmation of his ability or willingness to come to Rarotonga to pursue his claims.

[4] Against that background, in reliance on Rule 4.2 and the Courts inherent jurisdiction it seems to me that there are valid grounds for the Defendant's application to be granted.

[5] The proceeding is dismissed for want of prosecution.

*Potter, J.*

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**Judith Potter, J**