

IN THE FIJI COURT OF APPEAL
Civil Jurisdiction
CIVIL APPEAL NO. 44 OF 1983.

Between:

MOHAMMED RAFIQ s/o Mohammed Ibrahim APPELLANT

- and -

- 1. DEO RAJ s/o Shiu Charan RESPONDENTS
- 2. MEHMOOD KHAN s/o Mohammed Amin

M.S. Sahu Khan for the Appellant.
N.C. Prasad for the Respondents.

Date of Judgment: 28th March, 1984.
Delivery of Judgment: 28th March, 1984,

JUDGMENT OF THE COURT

Speight, J.A. (Orally)

We are satisfied on Mr. Sahu Khan's submission concerning rule 19/3 that the Plaintiff's only entitlement to enter interlocutory judgment is on liability only, with the assessment of damages to be determined at a later date. There was such a later hearing.

In the amended Statement of Claim various items of loss were claimed under the head of "Special Damages". Examination shows that these items were really unliquidated claims.

They would require proof of such matters as the need for and extent of travelling expenses incurred, the need to employ labour to replace his own efforts as a farmer, and similar matters.

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That being so these items would be matters calling for proof, and should not have been the subject of a judgment signed across the Court counter.

The appeal is allowed and the judgment is set aside, with leave to the Appellant to defend.

The Respondents are to have their costs for the default judgment and the quantum hearing in any event. No costs for this hearing.

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