

IN THE FIJI COURT OF APPEAL

CIVIL JURISDICTION

CIVIL APPEAL NO. ABU0027 OF 94S

IN COURT

BEFORE THE HON. JUDGES OF APPEAL  
HON. MR. JUSTICE SIR EDWARD WILLIAMS  
HON. MR. JUSTICE SAVAGE  
AND HON. MR. JUSTICE JOHN DILLON

THURSDAY THE 18TH DAY OF AUGUST, 1994 AT 11.30 A.M.

BETWEEN:

VATUWAGA TRANSPORT COMPANY LIMITED  
BLUELINE TRANSPORT COMPANY

APPELLANTS

-and-

TRANSPORT CONTROL BOARD  
YATU LAU COMPANY LIMITED

RESPONDENTS

Mr. H. K. Nagin for the Appellants  
 Mr. S. Sharma for the 1st Respondent  
 Mr. G.P. Lala for the 2nd Respondent

D E C I S I O N

The appellants seek to have their notice of motion for leave to appeal against the ruling of Mr. Justice Byrne given on the 31st March 1993, adjourned for hearing before a single Judge of the Court of Appeal. The reason advanced for this course is to allow them a further opportunity to appeal to the full Court of the Court of Appeal should the single Judge refuse them leave to appeal.

The application has found its way before this Court constituted by three judges of the Court of Appeal. It is conceded by all parties that we have the power to deal with the application.

The material before us is such as to excite our concern at the length of time and expense involved in the somewhat tortuous course which an application to The Transport Control Board for certain amendments of the Road Service Licence of the first respondent, has taken.

Whilst fully apprised of the practice that appears to have grown up in this country of litigants being permitted the luxury of exploiting (if they so wish) every available mechanism for appeal, on what we have read and heard from counsel concerning this application, we are of the view that we should hear this application and we so intend to do so forthwith. Ample time has been set aside for a full hearing of this application. The Court's time should not be wasted.

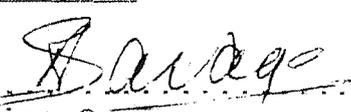
We had occasion to call for the whole file in this Court, dealing with the Court's part in these proceedings. A superficial glance reveals that whilst we have not before us in our record, all of the material placed before the Court, we have no doubt that what is before us is adequate for us to deal with this application. We are proceeding forthwith to do so.

The Court has heard considerable argument upon the issues raised in this matter. As a result of discussions between the members of the Court and all of the parties, all have agreed that the appropriate course is for the original application to the Transport Control Board for amendment of the Licence held by the respondent Yatu Lau, should be brought on before the Board and heard de novo. Mr. Sharma for the Board has indicated that if this Court were to dispose of the matter before it on this basis, then the Board would be likely to proceed to consider the application on that basis.

In the circumstances, this Court dismisses the application for leave to appeal. The result is that in our view, the original application for amendment before the Transport Control Board should be brought on for hearing as soon as possible and the Board should consider the original application as if it were a newly made application and determine it accordingly.

In all the circumstances, it was our view, acceded to by all counsel, that there should be no order for costs of this application for leave to appeal.

  
.....  
Sir Edward Williams  
Judge of Appeal

  
.....  
Mr. Justice Savage  
Judge of Appeal

  
.....  
Mr. Justice Dillon  
Judge of Appeal