

IN THE COURT OF APPEAL
[On Appeal from the High Court]

CIVIL APPEAL NO. ABU 0036 of 2014
(High Court Action No. HBC 03 of 2012)

BETWEEN : **PAULA MALO RADRODRO**

Appellant

AND : **THE COMMISSIONER OF POLICE**

Respondent

Coram : **Lecamwasam, JA**

Counsel : **Appellant In Person**
Mr. J. Pickering for the Respondent

Date of Hearing : **4 February 2016**

Date of Judgment : **26 February 2016**

DECISION

Lecamwasam JA

- [1] This is an application by the Appellant for leave to appeal out of time. The application is made pursuant to rule 27 of the Court of Appeal Rules, the effect of which is that an application for an extension of time for filing and serving a notice of appeal filed out of time is required to be made to the Court of Appeal. Under section 20 of the Court of Appeal Act Cap12 a Judge of the Court may exercise the power the Court of Appeal to,

inter-alia extend the time within which a notice of an application for leave to appeal may be given. The application was supported by an affidavit sworn by the Appellant himself on 30th April 2014.

- [2] The Appellant is seeking leave to appeal out of time against the decision of the High Court delivered on 12th March 2014 whereby the Learned Judge upheld the decision of the Master and ordered the appeal to be dismissed.
- [3] This was a case where the Appellant (original Plaintiff) filed action against the Police Commissioner alleging breach of duty, defamation and aiding and abetting on the part of the Lautoka Police on the basis that his house was burgled on many occasions and his scientific discoveries stolen. He alleges that the Police has never bothered to investigate any of his complaints lodged between 2005 and 2011. He claims that the Police breached their duty in failing to investigate any of his complaints. Hence he claims damages against the Police.

The Learned Master ordered the Plaintiff's claim be struck out as it did not disclose a reasonable cause of action.

- [5] Being dissatisfied with this order the Plaintiff appealed to the High Court. The High Court dismissed the appeal. The Appellant states that he made this application in pursuant to section 20(e) (Chap.12, part III) of Court of Appeal Act. Section 20, deals with the powers of a Judge after an appeal is filed. However it is evident that the instant appeal was filed under section 12 of the Court of Appeal Act. Section 12 states thus –

12 –(1) Subject to the provisions of subsection (2), an appeal shall lie under this Part in any cause or matter, not being a criminal proceeding, to the Court of Appeal –

(a) ...

(b) ...

*(c) On any ground of appeal involves a **question of law** only, from any decision of the High Court in the exercise of its appellate jurisdiction.*

- [6] Section 12 (1)(c) restricts the filing of Appeals from any decision of the High Court in the exercise of its appellate jurisdiction, on a question of law only. I do not find any

question of law in this appeal. Therefore acting under Section 12(1)(c) this appeal stands dismissed. One can resort to Section 20(e) only after obtaining leave under 12(1)(c). No one has raised this position before Court, but 'ex mere motu' I have taken cognisance of the provisions of Section 12(1)(c).

Orders of Court

1. *Appeal dismissed and I order parties to bear their own costs.*



S. Lecamwasam
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Hon. Mr. Justice S. Lecamwasam
JUSTICE OF APPEAL